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RULES OF COLLECTIVE BARGAINING 1860-1930

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Abstract

This thesis aims to examine an intellectual background of formation and development of collective bargaining between 1860 and 1930. In the voluntary framework of collective bargaining trade unions were able to negotiate trade and welfare issues with their employers on equal terms. Its institutional formation was secured by the trade union laws of the 1870s. To look into reasons behind its legal composition suggests an anomalous discourse of political economy in the mid-Victorian period, which embodied reciprocal and self-less public virtues of liberalism in contrast to its individualistic and optimistic proposition of free trade developed after the repeal of the Corn Laws in 1846. The cooperation between official and popular economic culture ensured the rule of law in free trade economy, when the voluntary operation of collective bargaining was successful in identifying the public interest by seeking market equilibrium between the interest of producers and that of consumers. However, Britain's voluntary market culture of free trade faced a severe challenge from the growth of corporate capitalism. Exigencies of the latter turned the free operation of collective bargaining into a stalemate and extracted grave concerns from liberal intellectuals, who lamented ongoing separation between moral and economic law in the principle of political economy. In light of the public interest, both New Liberal and Conservative intellectuals developed their own visions of collectivist society. Focusing on their usages of the liberal concept of public opinion, this thesis argues that political economy of historical economists, by introducing economic organisation of labour as the means to identify the interest of consumers with producers, suggested pluralist solutions to make a reconciliation with the advancement of market economy. The end of liberalism was heralded, when revival of the progressive movement in the 1920s was oriented to achieving industrial cooperation based upon economic rationalisation in production.

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Author's Declaration

I declare that the work in this dissertation was carried out in accordance with the requirements of the University's *Regulations and Code of Practice for Research Degree Programmes* and that it has not been submitted for any other academic award. Except where indicated by specific reference in the text, the work is the candidate's own work. Work done in collaboration with, or with the assistance of, others, is indicated as such. Any views expressed in the dissertation are those of the author.

SIGNED: DATE:.....

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Introduction

An incorporation not only renders them necessary, but makes the act of the majority binding upon the whole. In a free trade an effectual combination cannot be established but by the unanimous consent of every single trader, and it cannot last longer than every single trader continues the same mind. The majority of a corporation can enact a bye-law with proper penalties, which will limit the competition more effectually and more durably than any voluntary combination whatever.

The pretence that corporations are necessary for the better government of the trade is without any foundation. The real and effectual discipline which is exercised over a workman is not that of his corporation, but that of his customers. It is the fear of losing their employment which restrains his frauds and corrects his negligence. An exclusive corporation necessarily weakens the force of this discipline. A particular set of workmen must then be employed, let them behave well or ill. It is upon this account that in many large incorporated towns no tolerable workmen are to be found, even in some of the most necessary trades. If you have your work tolerably executed, it must be done in the suburbs, where the workmen, having no exclusive privilege, have nothing but their character to depend upon, and you must then smuggle it into the town as well as you can.¹

This thesis aims to rebuild the history of collective bargaining in Britain from 1860 to 1930. From the establishment of the boards of conciliation and arbitration in the Birmingham hosiery industry, the scheme of collective bargaining had an enormous impact not only on economic life of Britons, but also on national politics. Its institutional arrangements, in which representatives of employers and workers sat side by side with each other and discussed trade issues over a round-table on a voluntary basis, did not appear by accident in history. There was an underlying movement of liberalism, which developed in a distinct form in the isle. Collecting ideas about collective bargaining during the period, the thesis attempts to constellate them around the interacting discourse of political economy. It did not receive persistent reception, but variable in periods and

¹ A. Smith, *Wealth of Nations*, London, 1999 (first pub. 1776), p.233

not in the least moved into the mainstream by attracting attentions of political or industrial elites or wider popular discourse than reformists. However, when the working-class right of freedom of contract was granted, freedom of collective bargaining became a symbolic virtue as the basis of civil society in the Victorian period. The salutary mood of co-operation between capital and labour invoked public virtue of trust, but, as a rule, its *raison d'être* did not last for an infinite time. Its changing economic role and political meanings, thereafter, provided platforms of varied liberal ideas, some of which were so influential as to reinvent the tradition and arrive at different understandings of utilities of collective bargaining. To dig out its root-cause is tantamount to recontextualization of liberalism, which was obscured in the process, and to reformation of Britain's market culture of production and consumption.

On the establishment of free collective bargaining the intellectual traditions have weaved each historiography and examined its outcome in the market economy. The rule of the capitalist market system has long been central to their visions and understandings, since the procedure of collective bargaining was considered to be a vital for its function. From Fabianism to and beyond Oxford School history, historians of trade unionism saw unbridled operation of collective bargaining as the symbol of liberal economy, by which individuals could maximize their interests through their exchanges of property and, in consequence, undersell the residuum. This thesis aims to challenge these views based on the market orthodoxy by scoping out a broader and heterodox spectrum of Britain's contemporary intellectual outlook on market economy. The trajectory of intellectual discourse of political economy did not suggest the market doctrine simply as the economic canon to accumulate wealth of nations, but a deistic principle to see an individual as a moral agency in economic activities. Reid's work on trade unionism

certainly injects a consideration of 'ethical and religious' sentiment of Victorian liberalism into historiography of collective bargaining.² Nonetheless, by following the intellectual experience underlying the institutional growth of free collective bargaining this thesis reveals that separation between the economic and moral law in intellectual history of political economy resulted in attaching bilateral meanings to freedom of collective bargaining: in the age of modern corporate capitalism free collective bargaining connoted contradiction of freedom of individuals with the public interest.

When the common law tradition, which had safeguarded individual liberty and local democracy since the Puritan revolution, embraced a juridical proposition of collective liberty, a paradox was posed by the progressive culture of Protestant Christianity, which Reid identifies as trade unionists' motif of co-operation. Their demand for free collective bargaining under the liberal order of free trade was enmeshed in accumulation of the national interest on contrary to the communal interests. Without seeking to sanction a pluralist form of collective liberty, free competition in a collectivist society led to a decline in the mid-Victorian public virtue of trust, which had reconciled individual liberty with the public interest under freedom of collective bargaining. Rather than making a consensus with the interest of consumers, operation of collective bargaining in corporate economy functioned as a complementary scheme to promote material welfare of sectional individuals with failure to hold back expansion of market economy. Dissection of the discourse of political economy discloses reasons behind the institutional progress of collective bargaining, in which moral order was overshadowed by the growth of the

² A. Reid, 'Old Unionism Reconsidered', in E. Biagini & A. Reid (eds.), *Currents of Radicalism, Popular Radicalism, Organized Labour and Party Politics in Britain, 1850-1914*, Cambridge, 1991 and *The Tide of Democracy, Shipyard workers and social relations in Britain, 1870-1950*, Manchester, 2010

economic law of national economy. By shedding a light not only on how contemporary intellectuals sought to react to changing economic environment, but also on Britain's characteristic development of corporate culture in holding off incorporation of industrial relations into the political arena, this thesis argues that the voluntary culture of the working class was no longer *raison d'être* of collective bargaining, but corporate interests took over it in its process. Giving legitimacy to free trade economy, the liberal context of political economy had acknowledged the popular economic culture. This juxtaposition between official and popular culture of free trade ended up in political dilemma, when there was an increased demand for the formation of corporate economy owing to severe economic competition giving rise to a political question of limited liability.

An original and unique characteristic of collective bargaining was its voluntary system to meet and seek solution of industrial issues between capital and labour. This attitude to avoid intervention from authorities was underpinned by Britons' high confidence in efficacy of the market principle, which was authorized and developed in the tradition of political economy. Since the publication of Adam Smith's *Wealth of Nations*, the discourse of political economy had been a driving force to curtail the mercantile power and to establish Britain's distinctive feature of the liberal relationship between the state and market, which was evinced by its advancement in the *laissez-faire* economy.³ The deistic principle inculcated market economy to set natural order emancipating men from obstacles to natural liberty and such experience was reviewed as 'radical solvents of the

³ On the intellectual formation of political economy, see, Istovan Hont, *Jealousy of Trade*, Cambridge, 2005. E. Rothschild, *Economic Sentiments: Adam Smith, Condorcet, and the Enlightenment*, Boston, 2001. R. Teichgraber, *'Free Trade' and Moral Philosophy, Rethinking the Sources of Adam Smith's Wealth of Nations*, Durham, 1986. D. Winch, *Riches and Poverty, an intellectual history of political economy in Britain, 1750-1834*, Cambridge, 1996.

old consensus, more akin to conversion experience'.⁴ Individual morality was supposed to be fostered under the *laissez-faire* state, in which the tradition of political economy provided the intellectual bases of discretion about economic as much as ethical problems from abolition of slavery to the repeal of the Corn Laws in the early nineteenth century. In scrutinizing the history of collective bargaining, its voluntary institutions were strongly tied to contextual developments of political economy, but not applied straightforwardly to its deterministic assumption of impersonal market force as a guiding agency of collective bargaining.

British experience of the civil war in the late seventeenth century facilitated Britain's adoption of free trade. As Weber insisted, the Protestant movements called for the economic order based on free trade, in which the spirit of capitalism arose from spontaneity as long as sprung from the purely religious motives of individuals.⁵ Once the divine right of monarchy gave place to natural liberty, the regime of limited monarchy had acted as the fortress of 'liberal conscience'. The state, successfully incorporating a part of commercial interests after 1688, could contain the revival of radical sentiments, when the French Revolution reignited the radical idea of popular sovereignty especially after Thomas Paine's publication of *The Rights of Man* in 1791. Plebeian movements of post-Napoleonic war radicalism demanded parliamentary reform, attacking the oligarchic

⁴ A. Howe, 'Restoring free trade, 1776-1873', in O'Brien & Winch (eds.), *The Political Economy of British Historical Experience, 1688-1914*, Oxford, 2002, p.194

⁵ 'The very powerful hostility of public opinion to monopolies, which is characteristic of England, originated historically in a combination of the political struggle for power against the Crown – the Long Parliament excluded monopolists from its membership – with the ethical motives of Puritanism; and the economic interests of the small bourgeois and moderate-scale capitalists against the financial magnates in the seventeenth century The Declaration of the Army of August 2, 1652, as well the Petition of the Levellers of January 28, 1653 demand, besides the abolition of excises, tariffs, and indirect taxes, and the introduction of a single tax on estates, above all free trade...' (M. Weber, *The Protestant Ethic and the Spirit of Capitalism*, New York, 1992 (first pub.1904).p.259)

constitution of the legislative class as immersed in vested interests.⁶ The Chartist movements inherited values of egalitarian republicanism and their ‘People’s Charter’ was centred around the equality of political rights. While reactionary measures reached a peak in 1819, when the notorious Six Acts were enacted and the Peterloo massacre took place, the *laissez-faire* regime was not full-fledged autocracy of old corruption by the landed-aristocracy.⁷ Progressive policies like reduction of taxes on consumption, introduction of income tax and provision of public service including utility supply, gave impression of curtailing the fiscal military state and separated the interest of consumers from that of producers.⁸ This resulted in cushioning subversive enthusiasm of radicalism, when the working-class radicals found difficulty in gathering popular support for their traditional economic programme of the land reform.⁹

As the discipline aiming to comprehend rational accumulation of capital, the intellectual discourse of political economy gave credence to progressive politics of free trade. Its orthodoxy endorsed two leading visions of market economy, both of which shaped free trade policies in the early nineteenth century. The Benthamite idea of utilitarianism

⁶ On post-war radicalism, see, A. Burns & J. Innes (eds.), *Rethinking the Age of Reform: Britain 1780-1850*, Cambridge, 2003. J. Epstein, *Radical Expression: Political Language, Ritual and Symbol in England, 1790-1850*, Oxford, 1994. C. Parolin, *Radical Spaces, Venues of popular politics in London, 1790-c.1845*, Canberra, 2010. I. Prothero, *Artisans and Politics in Early Nineteenth-Century London. John Gast and His Times*, London, 1979.

⁷ M. Daunton, *State and Market in Victorian Britain*, Suffolk, 2008, pp.5-8

⁸ On progressive politics in the early nineteenth century, see, B. Hilton, *The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought, 1795-1865*, Oxford, 1988. P. Mandler, *Aristocratic Government in the Age of Reform: Whigs and Liberals, 1830-1852*, Oxford, 1990.

⁹ G. Stedman Jones, *Languages of Class – Studies in English Working Class History 1832-1982*, Cambridge, 1983, pp.176-8. On recent historiography regarding Chartism, see, M. Chase, *Chartism: A New History*, Manchester, 2007. C. Frank, *Master and Servant Law: Chartists, Trade Unionists, Radical Lawyers and the Magistracy in England, 1840-1865*, Farnham, 2010. J. Gibson, *The Political Thought of the Chartist Movement*, Online PhD. thesis, Cambridge, 2017

proposed that individual morality was enhanced after maximisation of utility – the end of human beings was to maximize pleasure and minimize pain. On the other hand, Christian political economy reprobated hedonistic egoism of utilitarianism and sought to reconcile religion with the growth of scientific approaches. Both frames of mind, intertwined with one another, had upheld the market principle of *laissez-faire* individualism and revamped the mercantile or physiocratic models of economic thoughts. Their difference lay in their portrayals of the role of divinity in the market economy, which were founded on two contrasting, but influential principles of political economy – Ricardian and Malthusian schools of thoughts. While the former adopted technical and material-based arguments of economic man, employing utilitarian concepts of ‘pains of labour against the pleasures of profit’, the latter’s physiocratic understandings of natural order maintained concepts of agrarian economy such as underconsumption and a glut.¹⁰ Christian political economists, affected by Malthusian theories of stationary state, developed the evangelical model of free trade, which laid greater emphasis on providentialism. Based on a notion that a natural or efficient level of consumption would be restored without stimulations on production, evangelicals saw trade depressions and financial crisis as the ‘Providential check’ for injustice of capital. Hence, with the fatalistic attitude of the Christian tenet of Atonement, they expected the market operation to provide individuals with educational opportunities of spontaneous salvation.¹¹

Rather than Ricardian model of individualism, whose sanguine nature of utilitarianism

¹⁰ On recent Malthus-Ricardo controversy, see, D. Aronoff, *A Theory of Accumulation and Secular Stagnation: A Malthusian Approach to Understanding a Contemporary Malaise*, Basingstoke, 2016. D. Winch, *Malthus: A Very Short Introduction*, Oxford, 2013. F. MacLachlan, ‘The Ricardo-Malthus debate on underconsumption: A case study in economic conversation’, *History of Political Economy*, vol.31, 1999

¹¹ Hilton, op.cit., pp.25-70

affirmed the prospect of economic expansion, this retributive model of evangelicalism was influential in free trade visions of the landed and metropolitan elites, who turned to the ideological plank of liberal Tories in the 1820s, and in those of following Liberal Peelites.¹² In contrast to the prospect of Christian political economists like Thomas Chalmers, who believed that the increased commercial activities would raise mutual interdependence among the people, they entered into a moral impasse, when their Providential order created the paradoxical social condition, in which existence of poverty persisted in coincidence with more avaricious attitudes of individuals.¹³ Accordingly, the binary discourse of political economy tilted towards more optimistic and growth-oriented mindset of utilitarianism, which relied on the state in rewarding and punishing individuals. Cobden's rejection of retributive evangelicalism with the cosmopolitan language of free trade marked the historical watershed. The principle of free trade advocated by the Anti-Corn Law League embraced Ricardian industrialist languages of more prosperity and happiness by capital accumulation and international division of labour. In the light of departure from the providential rule, Howe has argued that this transition of the meaning of free trade turned out to be 'a symbol of new community of interest and a new understanding of the nation itself'.¹⁴ Instead of fatalism of evangelicals, this Christian doctrine was ordained to unify and moralize 'mankind' by commercial activities.¹⁵

It was during the embryonic stage of Cosmopolitan vision of global civilization that the voluntary framework of collective bargaining came to the fore as the means to meet producers' demand for equality before the law within the consumerist politics of free

¹² Howe, op.cit., p.198

¹³ G. Searle, *Morality and the Market in the Victorian Britain*, Oxford, 1998, pp.8-26

¹⁴ A. Howe, *Free Trade and Liberal England 1846-1946*, Oxford, 1997, p.36

¹⁵ Hilton, op.cit., pp.246-7

trade. In the backdrop of this institutionalisation of economic subculture of producers, there was working-class acceptance of the discourse of political economy.¹⁶ While the Paineite tradition of republican radicalism was still upheld as the democratic spectrum among the working classes, who fought for the natural right of labour as the fundamental source of property against the corrupt system of monopoly in land and capital ownership, impracticality of their rhetoric of land reform emasculated by progressive politics necessarily turned them to seek a more acceptable form of a utilitarian solution of co-operation. In particular, Ricardian conversion from physiocratic doctrine to industrial capitalism gave grounds for reception of political economy at the grassroots. It offered to radicals who were frustrated by *laissez-faire* attitudes of the state different prospects of economic rationalisation by more practical and dissident discourse of political economy. They weaved its context to challenge the orthodox accounts of the market principle and seek social institutions to amend the situation, in which landlords and capitalist acted as unproductive parasites on labour.

Declining the classical orthodoxy of political economy, in which the harmonious efficacy was secured by the divine rule of market economy, radicals concerned themselves in combining industrial disciplines with scientific enlightenment. Radical political economists like Thomas Hodgskin, William Thompson and J.F. Bray developed more comprehensive understandings of political economy by taking account of politics of distribution of wealth beside analyses of productivity of capital, which was later shared by radical leaders and led to lessening of the luddite tradition of devastating machineries.

¹⁶ See, M. Berg, *The Machinery Question and the Making of Political Economy 1815-1848*, Cambridge, 1980. N. Thompson, *The People's Science: The Popular Political Economy of Exploitation and Crisis, 1816-34*, Cambridge, 1984.

Furthermore, the Mechanic Institutes, the working-class educational institutions, offered more practical and empirical approaches to political economy. Its emphasis on cultural and intellectual aspects promoted the idea that education of labour was beneficial for capital. In this way, the Institutes prepared crossroads between the popular ‘dismal’ principle of political economy and wide-ranging disciplines of science. Berg has argued that, implanted ‘respect for laws’, the working-class acceptance of political economy fostered the sense of civic virtues shared between industrialists and skilled labour and promulgated a view that transformation of industrial system through new inventions and discoveries was ‘conducive to harmony and stability’.¹⁷

In particular, Robert Owen, influenced by William Goldwin’s anti-monopolist rationalism and Paineite radicalism, proposed the social control of industries to regulate the providential rule of political economy. Owen did not see political constitution as the social evil, but repudiated the system of competition, as he saw the market principle of individualism as involving irrational and unnatural deficiency, and upheld the radical sentiment that human labour was independent source of wealth and property rather than property of commercial classes. To demonstrate this view, the co-operative apparatus was imperative for restraint in competition and overproduction. His experiment of the Grand National Guild of Builders attempted to achieve shorter working hours and accumulation of capital on a communal basis, making use of cumulative productivity raised by technological advancement.¹⁸ Stedman Jones has argued that Owenism expanded the boundary of constitutionalist rhetoric of radicalism, since by attributing cause of social evils to an ideological part of human beings, not to political constitution, its employment

¹⁷ Berg, op.cit., pp.145-202, 272-6, 284-91

¹⁸ T. Tholfsen, *Working Class Radicalism in Mid-Victorian England*, London, 1976 p.55

of utilitarian aphorism provided popular movement with the ‘rationalist and scientific strand of enlightenment thinking’.¹⁹ Instead of boosting free trade like old radicalism, Owen’s scheme replaced competition with associations and the latter became intermediate platforms between competitive society and individuals, which set up foundation of subsequent working class movement of radicalism – trade unionism.²⁰

The growths of the popular discourse of political economy applied cultural values of society to its principles, in which local customs and traditions were reflected in its everyday practice. Its changing nature and validity of practical economic knowledge gave discretion to the public officials.²¹ Convergence between official culture of free trade and economic subculture of egalitarian radicalism occurred, once the liberal consensus of people’s budgets was associated with people’s bread questions. Peel’s total repeal of the Corn Laws in 1846 meant his deflection from the ethical belief in the evangelical theology and accepted ‘a perception of the moral and material benefits of free international exchange’.²² The political convention of paternalism and protectionist economy was no longer espoused. Russell’s administration abolished the imperial tariffs on tea, coffee, sugar and timber and repealed the Navigation Acts, which protected the shipping. Gladstone’s budget of 1853 increased direct taxation on the landed interests and reduced a wide range of duties over 600 commodities. In his 1860 budget, despite the public spending during the Crimean War, the number of tariffs was shrunk from hundreds to

¹⁹ Stedman Jones, *op.cit.*, p.127

²⁰ *Ibid.*, pp.123-7

²¹ F. Trentmann & M. Daunton, ‘Worlds of Political Economy: Knowledge, Practices and Contestation’, in Trentmann & Daunton (eds.), *Worlds of Political Economy*, New York, 2004, pp. 3, 7, 18

²² Howe, *op.cit.*, p.11

forty-eight and counterbalanced by imposition of increased direct taxation.²³ The advancement of freedom of exchange through a series of consumerist policies curtailed vestiges of the fiscal military state and entrenched the liberal consensus of people's budgets, as Gladstone intended to 'remove from the hands of the state resources ...to fructify in the pockets of people'.²⁴ Cobden's peaceful and popular crusade of free trade forged the popular identity of free trade and became the ideological bulwark of British liberal democracy. In this process, the Paine tradition of republican radicalism was associated with the people's 'cheap bread' question, as the working-class radicals accepted the principle of free trade as their common interests not only as producers, but also as consumers.²⁵ After David Urquhart's criticism on Whig's interventionist and protectionist diplomacy, they called for fair play of the government, demanding accountability and electoral reform. In the paradigm of cosmopolitan model of free trade, radicals strived to promote the neutral state as an even-handed guarantor.²⁶

The Gladstonian Liberal Party became the ideological bulwark of working-class independence, when it stood for the cause of co-operation. Liberals like Gladstone, Cobden, Bright and John Mill advocated the principle of co-operation to forge the strong sense of social solidarity among the poor. Influenced by Owen's experiment, their predilection for co-operative associations was based on their belief that mutual

²³ Cf. H. Matthew, 'Disraeli, Gladstone, and the Policy of Mid-Victorian Budgets', *Historical Journal*, vol.22, 1979

²⁴ Howe, op.cit., pp.39-68, 86-95, quotation from pp.67-8

²⁵ B. Harrison & P. Hollis, 'Chartism, Liberalism and the life of Robert Lowery', *English Historical Review*, Vol.82, 1967, pp.503-505, 523-30. On consumerist voice from working class radicals, see, M. Daunt, & M. Hilton (eds.), *The Politics of Consumption: material culture and citizenship in Europe and America*, Oxford, 2001. P. Gurney, *Wanting and Having: Popular Politics and Liberal Consumerism in England, 1830-1870*, Manchester, 2015.

²⁶ M. Taylor, 'The old radicalism and the new: David Urquhart and the politics of opposition, 1832-1867', in Biagini & Reid (eds.), op.cit., pp.40-3

relationship between ‘official’ and ‘popular economic culture’ would foster ‘a general harmony in which the greatest good of all would be the interest and care of all’. Hence, Biagini has argued that liberal democracy was accredited, when the co-operative tradition pulled down the master-servant relationship in the industrial world.²⁷ This party’s motto was exhibited in a series of trade union acts in the early 1870s, which acknowledged trade unions as an organisational body of labour to make a bargain with their employers on equal footing. The existence of Mundella’s boards of conciliation and arbitration gave credence to the legal recognition of trade unions in the Royal Committee of 1867. The Millian school of political economy countenanced the voluntary framework of collective bargaining as a scientifically validated measure not inimical to the market economy. The institutional framework of free collective bargaining was, thus, secured by legal immunity of trade union activities from state intervention. The state kept the neutrality in industrial relations by guaranteeing free trade in labour, in which each worker could exchange their property of labour on equal terms with capital without legal obstruction through trade union negotiations.

This thesis challenges this Liberal vision of co-operation in the mid-Victorian period. Biagini has not examined how characteristic Britain’s co-operation between the official culture of free trade and popular economic culture was in the ideological sense and how successful it was in providing economic liberty with the working classes through the voluntary scheme of collective bargaining. In consideration of the neutrality of the state in industrial relations, the voluntary framework was the institutional formation, in which the government acknowledged the legal status of trade unions, but did not grant them that

²⁷ E. Biagini, *Liberty, Retrenchment and Reform, Popular Liberalism in the Age of Gladstone, 1860-1880*, Cambridge, 1992, pp.141-4

of ‘incorporation’ – legal personality as a corporate entity. This double-edged proposition had a significant meaning in Britain’s economic culture of free trade and, in consequence, induced historians to enter into labyrinths of historiography. The orthodox understanding of political economy always helped to obscure this historiographical perplexity. Hilton has considered that in the light of free trade a crucial shift in the discourse of political economy was reflected in the economic question of limited liability. In contrast to evangelicals, who saw unlimited liability as divine retribution of commercial iniquity, optimistic and expansionist attitudes of free trade sanctioned formation of joint-stock companies based on corporate limited liability. Utilitarian political economists like Bentham, Cobden, Bright and Mill supported its cause, as limited liability provided increased and wholesale opportunities of investment to social enterprises including small savings of working-class co-operatives. Christian Socialists saw it as compatible with free trade and this enfranchisement of capital increased associational control of production, imposing obligations of mutual reciprocity between master and servant. Co-operative production was thus favourable among the Liberals for improving working-classes interest and engagement in management of business.²⁸

The growing discourse of general limited liability demised substantially the myth of stationary state in the Malthusian world. While the latter’s deistic programme of optimal choice ended up concentrating wealth on strong property holders, who had exclusive access to political power, expectations of the economic growth in the condition of limited liability replaced its theoretical fear of the principle of population with liquidity, distribution and employment of wealth. The fatalism to connect commercial failure to

²⁸ Hilton, *op.cit.*, pp.256-66

immorality was receded, as new capitalist attitudes encouraged investment as the means to maximise benefit of the public, which, however, caused new concerns about irresponsible behaviours from overtrading and reckless speculation to fraud, collusion and robbery.²⁹ Johnson has argued that in this circumstance the market principle was no longer premised on the zero-sum nature, but on a more practical substantial object of 'a nexus of institutions and rules with specific legal definitions'. This means that the market institutions of free trade were determined by tensions of class and sectional interests.³⁰ The radical bulwark of equality before the law, thus, had to be secured by political institutions through activities of political parties and trade unions.

True, the principle of co-operative production based on joint-stock limited liability became the agenda of the Liberal party. However, as other Western countries had already adopted the principle of limited liability before 1850, this did not explain Britain's distinctive culture of co-operation between officials and the people.³¹ To clear up the voluntary culture in the Victorian period, it is more important to give an emphasis on its peculiar formation of trade union movements. As some historians have pointed out, Britain's earlier acceptance of natural liberty provoked spontaneous efflorescence of trade unionism: in the tradition of liberalism trade unions evolved as one of voluntary associations.³² Compared to the Continent, where trade unions were somewhat invention of political parties, Britain's situation that the labour movement could gain the legal status of trade unions before the extension of parliamentary franchise premised their function

²⁹ Searle, *op.cit.*, pp.77-97, 202

³⁰ P. Johnson, *Making the Market, Victorian Origins of Corporate Capitalism*, Cambridge, 2010, p.115

³¹ Hilton, *op.cit.*, p.257

³² A. Reid, *United We Stand – a history of Britain's trade unions*, London, 2004, p.6

as autonomous countervailing force against state intervention and shaped unique attitudes of working classes towards statutory legislation.³³ The co-operative culture reflected in the Trade Union Act of 1871 was so distinctive in opting for the voluntary framework as to contradict with co-operative production which constituted an incorporated form of limited liability.

Thompson's survey into the social and political concepts of the public and its opinion helps to look into this official acceptance of voluntarism. Under the consumerist politics of free trade, the political public was deeply immersed both in the interest of consumers and in the intellectual discourse of political economy in the nineteenth century. The rational voice of consumers acted as public opinion to embrace trade unions as the means to achieve the public good in discussion of industrial bargaining and wage rates. There was this liberal political culture of the public opinion to accept free collective bargaining and to legitimise its bilateral institutional proposition to secure the neutrality of the state. Thompson's conceptual understanding of the public was so important for looking into advancement in the principle of co-operation in the liberal culture that in forwarding discourse of political economy, both Liberal and Conservative intellectuals later developed their visions by recourse to their contemporary understandings of the public interest, in which public opinion played a theoretical role of an economic coordinator complementing the indeterminate end of the market principle. In the mid-Victorian period this positivist conception of the public represented consumerist opinion and, in consideration of institutional formation of collective bargaining, its support for trade unions endorsed the general sentiment to bridge the gulf between non-intervening

³³ O. Kahn-Freund, *Labour and the Law*, London, 1972, pp.43-4

officialdom and trade unionism as a vehicle of radicalism.³⁴

By examining the Victorian sentiment of co-operation, which was constituted by the neutral state, voluntary collective bargaining and the consuming public, this thesis delineates economic organisation of labour, in which both consumers and producers were identified with each other, as a central role to safeguard the public interest. The optimistic and expansionist discourse of utilitarian political economy was stymied, when the Millian school of political economy authorized the unorthodox principle of economic liberalism based not on the market competition, but on a community-centred decentralised virtue promulgated by working-class associational efforts.³⁵ The humanitarian nature of political economy aimed to install individualism through ‘free and popular local and municipal institutions and industrial and philanthropic enterprises by voluntary associations’.³⁶ In this principle, this thesis argues, the economic culture of free collective bargaining offered moral guidance and cultivated mutual reciprocity determining rights and duties between capital and labour, which were contrasting to the premise of the orthodoxy that maximisation of individual interests was directly linked to accumulation of the public benefit. This religion of humanity was ensured by institutional procedure of free collective bargaining and, at this juncture, its operation imposed the rule of law on market economy seeking equilibrium of moral economy by the tripartite interests – capital, labour and consumers.

Such distinctive idea of the tripartite co-operation – the rule of law of free collective

³⁴ J. Thompson, *British Political Culture and the Idea of ‘Public Opinion’, 1867-1914*, Cambridge, 2013

³⁵ J. Lipkes, *Politics, Religion and Classical Political Economy in Britain, John Stuart Mill and his Followers*, London, 1999

³⁶ J. Mill, *On Liberty*, London, 1985 (first pub., 1859), pp.180-1

bargaining – was tested, when its institutional formation could no longer identify the interest of producers with that of consumers. Once Britain's credence as the guardian of free trade was wavered by the rise of economic protectionism leading to their free import of subsidised and dumped products, resurgence of domestic problems like unemployment, sweating and an increase in casual labour, bolstered a call for more collectivist solution than maintaining the *laissez-faire* state. The double-edged proposition of the legislative framework of free collective bargaining was gradually reckoned to be class-biased. The conventional programme of trade unionism to halt overproduction and limit the number of apprenticeship was seen as monopolistic as hampering maximisation of efficacy of the market operation. This reignited the argument about the merit of incorporation conceded by both political economists and trade unionists and developed into their demands for shaking off antiquated customs of trade unions. In this circumstance, the state neutrality in industrial relations, which was predicated on the voluntary institutions of free collective bargaining reached deadlock. This thesis suggests that when the Cobdenite mantra of universal free trade was degenerated, the growth of the positivist conception of holistic and inclusive public opinion began to endorse the federative framework of collective bargaining, in which amalgamated bodies of both employers and trade unions carried out nation- or industry-wide procedure of collective bargaining. The ideas on public opinion could no longer legitimate the popular sentiment to fill in the gap between officialdom and voluntarism, but sought collectivist approach to serving the public interest.

A watershed was marked, when the common law tradition approved the legal personality of 'fictive' corporation in 1889, by which legitimacy of corporate limited liability was entrusted to juridical discretion. Internalising the juridical dilemma between

individualism and collectivism, the common law tradition called into question Britain's distinctive liberal culture of collective bargaining. The *raison d'être* of trade unionism faltered, when it was clear that the bilateral propositions of voluntary institutions could not secure freedom of contract. In the Trade Union Act of 1871, they evaded responsibility of the incorporated capacity. However, as demands for co-operative production or corporate limited liability necessitated quasi-joint-stock entrepreneurship, the official culture could no longer safeguard the conventional practice of voluntarism, which was premised on unincorporated organisations with unlimited liability of individuals. The working class right of freedom of contract was subjugated to the national or corporate interest and trade unions could only safeguard material welfare of sectional interests in such collectivist framework. As a result, free trade in labour was restricted, as the institutional formation of voluntary collective bargaining was emasculated. In face of the crisis of the co-operative culture, the marginalist principle of neo classicism extended the utility of consumers as an economic regulator, by which the direct voice of public opinion could deliver its verdict in the federative framework of free collective bargaining.³⁷ In this process, the interest of consumers was still supporting that of producers, but the positivist concept of the public could no longer preserve the reign of free competition, since the existence of the neutral state, in which the institutional formation of voluntary collective bargaining consisted, was retrograded by the increased demand for the corporate governance, disposing of the rule of law in the market economy. Economic order of free competition ended up in making an unbridgeable gulf between officialdom and the residuum in the collectivist economy.

³⁷ Thompson, op.cit., pp.198-201

Confronting the growing importance of corporate governance, Conservative political economists attempted to rebuild the intellectual framework of economic organisation of labour by way of economic protectionism. They upheld analytical methodology of inductive historicism in contrast to deductive abstraction, since they believed that it was important to identify the role of custom of producers – a social virtue of trust – to galvanise collective action, by which producers developed the common interest with consumers. In contrast to giving utilities to the consumerist interest, their concepts of public opinion was, therefore, induced to seek not voluntary, but collective solution for harmonising the public interest in the neo-mercantilist framework, which was projected to reconcile officialdom with the market economy by consolidating economic organisation of labour as a bulwark of collective liberty in-between sovereignty and individuals. Historical economists like William Cunningham, Langford Price, Herbert Foxwell and William Ashley respectively endowed public opinion with theoretical reasons to determine the direction of corporate governance to identify the national interest. For them, to reach the common good was equivalent to a problem of religion, which meant that they considered that the common interest of individuals was not developed by their satisfaction of material interests, but by idealism of religion. Only by improvement in well-being of the community, individuals could maintain sound life and were inclined to subject themselves to selfless social duties.

By examining the intellectual tradition of historical economists this thesis reassesses the decline of pluralist politics in Britain.³⁸ The New Liberal politics of free trade adopted

³⁸ Historiography from the early 1990s suggests avoidance of the ‘class’ interest from politics. See, P. Joyce, *Visions of the People: Industrial England and the Question of Class, 1848-1914*, Cambridge, 1991. R. McKibbin, *Ideologies of Class: Social Relations in Britain, 1880-1950*, Oxford, 1990. D. Tanner, *Political Change and the Labour Party, 1900-1918*, Cambridge, 1993.

marginal accounts of natural liberty and remodelled a role of state intervention in the market economy for distributive purpose especially through imposition of taxation. Rather than warranting collective liberty of corporations – liberal corporatism – by protectionism, its adherence to free trade adopted the policy labelled as ‘collective *laissez-faire*’, in which bureaucratic expertise sought to make a balance between production and consumption by central control.³⁹ This meant that New Liberalism turned its corporate governance from the neutral to organicist approach, in which social reform ensured people’s welfare, calling for land reform as its ultimate end. As to industrial relations, the New Liberal programme endorsed the voluntary framework of collective bargaining, but the state played a role of an economic coordinator and defending the national interest. While the Trade Disputes Act of 1906 absolved trade unions from the corporate responsibility, in case of industrial disputes the Board of Trade mediated by organising institutional framework for collective bargaining and set up the legislative wage floor by the Trade Boards Act of 1909. Furthermore, they complemented operation of the labour market by compensating unemployment through social reforms like the introduction of labour exchanges and national insurance. In this way the New Liberal consumerist politics of free trade was grounded on their economic organicism to reconcile the consumerist interest of free trade with democratic interest of producers.

This thesis argues that New Liberal collective politics failed to protect the pluralist and autonomous institution of economic organisation of labour, which resulted in precipitating the separation between the official and popular culture during the First

J. Harris, *Private Lives, Public Spirit: Britain, 1870-1914*, Hammondsworth, 1993

³⁹ C. Howell, *Trade Unions and the State: The Construction of Industrial Relations in Britain, 1890-2000*, New Jersey, 2005

World War. The New Liberal politics of free trade in labour, predicated on the voluntary operation of nation- or industry-wide framework of collective bargaining, marginalised the interest of rank-and-file producers, as it increased managerial authority in favour of the national interest more than exigency of the latter. Hence, the deadlock of consumerist politics provoked the pre-war industrial unrest, when collective bargaining by well-organised labour ruled out the rank-and-files and the latter felt alienated.⁴⁰ British experience of the First World War turned its organicist governance from consumerist to productivist approach to the market economy.⁴¹ The Munitions of War Act restricted the labour market and the voluntary operation of collective bargaining was replaced by the state arbitration system. While the progressive movement did not give up its conventional practice of voluntary collective bargaining, the state took an initiative in dilution of unskilled labour, rational management and determination of wage rates. In this framework, political factors became a more important for negotiations and trade unions were granted administrative favour more than employers' organisations in the war-time production. In consequence, the pre-war presumption of the liberal market, based on customary practice of collective bargaining, was overturned by substantial incorporation of trade unions into the national framework of economic production.

The post-war movements to reconstruct the consumerist normalcy of free trade was led

⁴⁰ Reid, op.cit. On the relation between New Liberal consumerist politics and pre-war industrial conflicts, see, G. Dangerfield, *The Strange Death of Liberal England*, New York, 1935. C. Wrigley (ed.), *A History of British Industrial Relations 1875-1914*, Brighton, 1982.

⁴¹ On war-time industrial relations, see, G. Rubin, *War, Law and Labour: The Munitions Act, State Regulation, and the Unions, 1915-21*, Oxford, 1987. R. Wall & J. Winter (eds.), *The Upheaval of War, Family, Work and Welfare in Europe, 1914-1918*, Cambridge, 1988. J. Winter, *The Great War and the British People*, London, 1986. C. Wrigley, *David Lloyd George and the British Labour Movement: Peace and War*, Hassocks, 1976.

by the Treasury guidance to deflationary finance.⁴² It aimed to curtail war-time state intervention in industrial relations institutions. In order to complement such minimalist approach to the market economy, the Treasury orthodoxy of free trade availed of post-war internationalism of equality of trade to standardize economic regulations. However, under the constitutional status of free collective bargaining, the progressives steeped in self-governing culture turned both employers' organisations and trade unions to refusal of conformity to the international order. As the national interest was safeguarded by the organicist framework of collective bargaining, progressive movements were entangled in class struggle by institutional competition for political influence. The state's withdrawal from the national management of production met severe reaction from miners, whose strike action developed into the national scale involving workers from other major industries. In fear of degradation of collective bargaining, it was important for progressives to bring about industrial reconstruction by reorganisation of industrial co-operation. However, when producers sought to form an alliance, it was no longer co-operation concomitant with the consumerist politics of free trade voluntarism, but with productivist politics enmeshed in national programmes of parliamentary parties. This thesis concludes that when parliamentary politics exchanged their views on progressive co-operation, it did not mean that the rule of collective bargaining was a safeguard of economic organisation of labour, in which both producers and consumers were identified with each other. From the Conservative project of the Mond-Tuner Talks to the Labour's gradualism, the rule of collective bargaining was reckoned to be the productivist principle

⁴² On post-war Treasury policies, see, S. Newton & D. Porter (eds.), *Modernization Frustrated: the Politics of Industrial Decline in Britain Since 1900*, London, 1988. G. Peden, *The Treasury and British Public Policy, 1906-1959*, Oxford, 2000. S. Pollard (ed.), *The Gold Standard and Employment Policies between the Wars*, London, 1970.

to expand the national wealth, since free trade was accounted merely as a technical issue in their economic policies.

To follow changing ideas about collective bargaining between 1860 and 1930, this thesis scrutinises voices and statements of vernacular and intellectual contemporaries. From online newspapers to printed primary sources, they were selected and employed to fulfil objectives set in each chapter, but, in a broad sense, aimed at corroborating the British history of empiricism underlying the discourse of political economy. Before the British *Methodenstrait*, which made its divorce decisive between a deductive and inductive methodology, the classical discourse of political economy was the empirical science, which saw the complexities of human nature as an integral part of economic science. When the voluntary scheme of collective bargaining gained the legal recognition, its ideological rationale was not predicated on its orthodoxy, but countervailing principles, expressed not only by British positivists and Christian Socialists, but also by political economists adopting inductive and historicist methodology derived from Mill's eclectic methodological stance. By investigating Mundella's ideological outlook and popular co-operative discourse shared by reformist supporters, the early part of this thesis demonstrates that the voluntary scheme of collective bargaining was an institutional framework, in which, reciprocal and associational sentiments were more discursively employed as its main cause than utility maximising rationality in co-operation between capital and labour. Furthermore, it shows that such popular ideas of moral economy were increasingly concerned about the growth-oriented discourse of co-operation, as the latter assumed the separation between the moral and economic law in the discourse of political economy.

The first chapter scopes out the formation of double-edged legislative premise of the voluntary framework of collective bargaining to point out that its institutional formation was a result of dismissal of the individualist orthodoxy of political economy. Expanding conventional understandings of historiography, it discloses officials' characteristic embrace of the working-class radical culture through the legislation of the Trade Union Act of 1871. It is misleading to see the legal recognition of trade unions to be either working-class acceptance of the middle-class virtues or their adaptation to the capitalist market system. In contrast to the majority report of the Royal Commission of 1867, which saw trade unions as in restraint of trade – obstruction to the providential rule of individuals to pursue their own interests, the minority report, which acknowledged trade union funds to make industrial action, became the basis of the Act. Positivist and Christian socialist intellectuals theoretically approved trade unions as the means to impart providential order to the working class. However, their existing studies, including Curthoys' *Government, Labour and the Law In Mid-Victorian Britain*, place too much emphasis on the strong influence of official culture of 'moralising the market' in the making of voluntary collective bargaining and, as a result, are inclined to overlook the working-class embrace of the tradition of political economy. In this backdrop, by shedding light on the political impact of Mundella's boards of conciliation and arbitration on granting legitimacy to the minority report, the chapter insists that Mundella's attitude was opposite to the individualist orthodoxy and demonstrated Protestant culture based on mutuality and reciprocity in endorsement of trade unions as the means to transmit the principle of political economy.

The second chapter examines the Christian culture of the rule of law in the voluntary scheme of collective bargaining. Main issues at stake are to reveal that its ideological

connotation was strictly religious and that it formed a concept of moral economy seeking the economic equilibrium between capital, labour and consumers for the common good. When Millian political economy endorsed the heterodox doctrine of religion of humanity advocated by William Thornton and Thomas Leslie, the popular discourse of political economy, deflected from the utilitarian model of Ricardian industrialism, evaluated associational efforts to protect religious liberty of individuals and gave higher priority to moral issues than to economic rationality as the means of co-operation. The democratic rationale of collective bargaining gathered support from Christian communities and trade unions were expected to become economic organisation of labour, which guaranteed the working classes freedom of contract by defining mutual obligation of rights and duties with their employers, reflecting public opinion as consumers' voice in the communities. By collecting ideas and statements of contemporary liberals and intellectuals from local and regional press, which has been underused as a source of intellectual history, this chapter argues that the commitment to the rule of law of collective bargaining faltered, when the ideological background of morally-bound co-operation behind the voluntary framework of collective bargaining was gradually replaced by more growth-oriented concept of co-operation. What the positivist studies points to as the unstable relationship between the official culture and popular political economy was evinced by the latter's fear against more capital-centred approach to market economy, which brought about the separation between the moral and economic law in the intellectual discourse.⁴³ The

⁴³ On Positivist studies in regard with co-operative thoughts of the period, see, J. Betts, 'John Stuart Mill, Victorian Liberalism and the Failure of Co-operative Production', *Historical Review Online*, vol. 23, 2015 and *The business enterprise in mid-Victorian social thought*, unpublished Ph.D. thesis, Cambridge, 2013. M. Curthoys, *Governments, Labour, and the Law in Mid-Victorian Britain: The Trade Union Legislation of the 1870s*, Oxford, 2004.

voluntary convention of collective bargaining, which evaded the institutional merit of incorporation, was no longer efficacious in serving the communal interests.

The latter part of the thesis discusses a contextual trajectory of the empiricist discourse of political economy as a counterpoise to the marginalist revolution. After Mill's recantation of the wage-fund theory, the positivist social concept of public opinion filled in the theoretical vacuum of the orthodox market principle as an economic regulator. Britain's strong liberal character of public opinion was associated with its strong adherence to politics of free trade. Thompson's history of marginalism clarifies how the Marshallian orthodoxy evaluated the force of public opinion as the means to rein in economic competition.⁴⁴ Marshall's rejection of its conventional attribute of positivism rather endowed old marginalism with the political and historical nature and gave rise to his empiricist account of trade unions. On the other hand, historical economists adopting inductive and historicist methodology advanced their own conceptual usage of public opinion. Inheriting the empiricist approach of Millian political economy, their historicist accounts suggested community-centred propositions to amplify self-less and altruistic human virtues. Examining representative works of British historical school from Cunningham's ultra to Foxwell's rational empiricism, the third chapter lays out their general vision of collectivist society in light of the liberal concept of public opinion. Their antipathy to the dominion of natural liberty in neo-classicism resulted in their inductive and historical exploration of economic organisation of labour as a mediational role to safeguard economic autonomy by coordinating the balance between production and consumption.

⁴⁴ Thompson, *op.cit.*, pp.198-201

The third chapter, hence, seeks to suggest that when the state began to pursue corporate development of national economy, the practice of voluntary collective bargaining lost its credence in reconciling market economy with the public good. It was Frederic Maitland, a historical economist more famous for legal history, who dug into England's informal custom of endowing trust to voluntary associations and pointed out its peril in confrontation with the growth of collectivist society. Scrutinizing works of later historical economists like Cunningham, Price, Foxwell and Ashley, the chapter argues that their liberal usages of public opinion, whose function was projected to promulgate the virtue of trust in society, revamped economic organisation of labour into the neo-mercantilist economy. Since the economic principle of free trade was no longer effective in securing the public interest, they advocated protectionism as the means to save economic autonomy, by which producers and consumers could identify their interests with each other. From this viewpoint, historical economists did not expect trade unions to determine rights and duties between capital and labour in the light of the public. They considered that the social virtue of trust would be resuscitated, when the corporate governance was administered by the collective force of public opinion in contrast to its voluntarist and individualist concept in the neo-classical tradition. Under the rule of free competition in the common law tradition, corporate freedom necessarily ended up in turning its back to the rank-and-file members in society and led to a series of great industrial unrest before the First World War, to which Conservative and Liberal intellectuals took different approaches.⁴⁵

⁴⁵ On intellectual approach to the pre-war industrial unrest, see, E. Green, *The Crisis of Conservatism: The Politics, Economics and Ideologies of the British Conservative Party, 1880-1914*, London, 1995 and *Ideologies of Conservatism: Conservative Political Ideas in the Twentieth Century*, Oxford, 2002. B. Jackson, *Equality and the British Left: A Study in*

The triumph of new liberalism in opposition to protectionism was in parallel with the growth of the deductive approach to market economy. In the process, the empiricist characteristics of public opinion was outweighed by professional and bureaucratic commands of statistics. In the New Liberal policy of ‘collective *laissez-faire*’, the government intervened in industrial disputes for national economy and paved the way for co-operation between capital and labour by tailoring the institutional framework of collective bargaining. The final chapter examines the process that the government’s organicist approach to free trade economy discounted the empiricist discourse of political economy. Its war-time move from consumerist to productivist policy encouraged the conceptual growth of industrial co-operation, which was no longer based on the countervailing ideological virtues as in the Mid-Victorian period, but oriented towards economic rationalisation in production. Trentmann has already shown the end of the liberal relationship between the state and market economy by entertaining the rise of new internationalism, which advanced the post-war international framework of coordination economy by protectionism and rationalisation.⁴⁶ The chapter focuses on the progressive shift in the ideological basis of collective bargaining from viewpoints of liberal intellectuals, who, publishing works on industrial relations, developed their differential visions of the state-market relationship.

The liberal intellectuals like William Beveridge, Sidney and Beatrice Webb, Henry Clay

Progressive Thought, Manchester, 2007. J. Thompson, ‘The Great Labour Unrest and Political Thought in Britain, 1911-1914’, *Labour History Review*, vol.79, 2014.

⁴⁶ F. Trentmann, ‘The strange death of free trade: the erosion of “liberal consensus” in Great Britain, c.1903-1932’, in E.F. Biagini, (ed.), *Citizenship and Community, Liberals, Radicals and Collective Identities in the British Isles, 1865-1931*, Cambridge, 1996, ch.9 and ‘The Transformation of Fiscal Reform: Reciprocity, Modernization, and the Fiscal Debate within the Business Community in Early Twentieth-Century Britain’, *Historical Journal*, vol.39, no.4 Dec., 1996

and John Hobson reacted to the dysfunction of Britain's free trade and put forward their suggestions to secure fluid, equal and equilibrical market economy under the 'collective *laissez-faire*' system. In addressing problems of industrial relations, they upheld the orthodox principle of market economy, which, nonetheless, the Webbs first saw as hostile.⁴⁷ Beveridge's early work *Unemployment: A Problem of Industry* proposed to organise the labour market via administration of labour exchanges, which would amend quantitative imbalance of supply and demand for labour. The Webbs in their *Industrial Democracy* aimed to repair defects of federative or industry-wide frameworks of collective bargaining, since rank-and-file exigencies were inclined to be neglected. Clay was an orthodox economist, but reluctant to resort to deductive economic theories. His *The Problem of Industrial Relations* pointed out that the war-time production destroyed customary practices of producers to adjust wages to efficient rates through their voluntary procedure of collective bargaining. Hobson in his later work, *The Conditions of Industrial Peace*, argued that the progressive alliance could not secure natural liberty of individuals without the social initiative for market equilibrium. In the progressive discourse, the empiricist tradition attributed to the voluntary culture of public opinion was no longer assumed to be a regulator of market economy, but rational calculation by central authority in the corporate pluralist form of production.

⁴⁷ In *History of Trade Unionism*, published in 1894, they lamented new model unions' incorporation into the market doctrine of supply and demand, whereas in *Industrial Democracy* they argued that trade unions clogged up the system of 'perfect competition' and 'complete mobility', under which 'the common level of wages tends to be no more than "the net produce due to the additional labor of the marginal laborer"...', (Sidney & Beatrice Webb, *Industrial Democracy*, London, 1920, first pub. 1897, p.710)

Ch.1 Market and Conciliation

1.1.Historiography and Collective Bargaining

The institutional framework of standing boards of conciliation and arbitration can be seen as an economic subculture of free trade internationalism, following the enactment of the Anglo-French Commercial Treaty (the Cobden-Chavalier Treaty) in 1860. This commercial agreement represented Cobden's shift in the principle of free trade from cosmopolitanism to internationalism, which meant that free trade partnership was subsequently formulated on the basis of sovereignty of nations. Cobden argued this regulative process would form the 'peace bond between nations' enabling the people of each nation, not their rulers, to satisfy their mutual needs.⁴⁸ Anthony John Mundella, who visited Paris with Cobden's delegation as a chairman of the local chamber of commerce, supported the treaty as he believed the treaty would increase the good will between the nations and peoples.⁴⁹ During the downward economic spiral from 1857 the expansion of hose markets resulted in discord at Mundella's stocking firm, which was known for the first steam-powered hosiery factory in Nottingham. A number of outworkers, like old framework knitters, were outpaced and replaced by the introduction of mass production, in which factory workers adopted new machinery. Invoking the strong Luddite tradition,

⁴⁸ Britain reduced duties on silks, wine and spirits and removed restrictions on the export of coal, on the one hand. France, in return, abolished prohibitory duties and admitted British goods at maximum duties of 25 per cent within five years, with immediate reductions on coal, iron, and machine tools. (Howe, op.cit., pp.92-3)

⁴⁹ W. Armytage, *A. J. Mundella, 1825-1897: The Liberal Background to the Labour Movement*, London, 1951, p.31

four strikes broke out. When employers planned to carry out lockouts as counter-action, Mundella denounced such a course of action, as it just worsening the dreadful situation, and suggested, instead, a round-table conference between the employers and operatives. In the end, two parties of different interests in the hosiery trade reached an agreement of the establishment of the permanent board of arbitration, in which Mundella was elected as the first president of the board and declared the meaning of this establishment in his presidential address as follows:⁵⁰

I hope you look upon yourselves as judges of disputes, and consider that you are bound to form an impartial opinion on all matters that are brought before you. I hope you will also consider that your object will be to promote the prosperity of every branch of trade, and of all persons engaged in it.

Mundella's board was composed of six to seven representatives from both capital and labour respectively. They stood on equal footing and discussed trade issues including the questions of wage-rates on a regular basis. Mundella as the chairman had a casting vote, but there was little need to use it during his tenure.⁵¹ In addition, a small committee of four appointees was formed not only to make rules, but also to seek adjustment of their differences ahead of the opening of the formal board. In consequence, these schemes were successful for replacing industrial disputes with peaceful settlements for over ten years, as Mundella later testified 'not one strike occurred while the Board had been in operation and that never before had such good feeling prevailed between employers and workmen'.⁵² Moreover, the board reached agreements in banning the notorious truck system in the outwork industry and in prosecution of middlemen who violated the rules

⁵⁰ Ibid., pp.30-34, quotation from pp.33-4

⁵¹ V. Allen, 'The Origins of Industrial Conciliation and Arbitration', *International Review of Social History*, vol.9, August, 1964, p.251

⁵² *Morning Post*, Jul.08, 1869

decided by mutual consent.⁵³ In this way, Nottingham hosiery trade attempted to overcome difficulties between capital and labour.

This chapter examines political influence of this economic subculture of collective bargaining. Its contribution to the legislative recognition of trade unions in the early 1870s was so impactful that the report of the Royal Commission on Trade Unions issued in 1868 acknowledged usefulness of Mundella's boards of conciliation and arbitration. The commissioners learned from Mundella's statement that there was a way to harmonize the interests of labour and capital.⁵⁴ In the second reading of the Trade Union bill Mundella made a speech in legalising trade unions as follows:⁵⁵

It is purely a question of free trade in labour. A master is a corporation and can deal singly with his men if they go to him singly. But if they go to him as a Trade Union they are a body equal to himself and a bargain can be made on equal terms.

Mundella's bill consisted in its equality before the law placed in front of both anti-union employers and extreme union leaders.⁵⁶ The Trade Union Act of 1871 enabled trade unions to enjoy the right equivalent to that of joint-stock companies: capital and labour could stand on equal terms in the process of collective bargaining for achieving their objects. This legal recognition of trade unions, nonetheless, did not signify endowment of the incorporated status with labour. McKibbin has mentioned that the good-will of the state granted to trade unions the same privilege of upper- and middle-class institutions by

⁵³ W. Armytage, 'A. J. Mundella and the Hosiery Industry', *Economic History Review*, vol.18, 1948, p.98. R. Church, 'Technological Change and the Hosiery Board of Conciliation and Arbitration 1860-1884', *Yorkshire Bulletin of Economic and Social Research*, vol.15, 1963, p.55

⁵⁴ Curthoys, op.cit., p.90

⁵⁵ Armytage, *Mundella*, p.70

⁵⁶ Ibid., p.69

extending a corporate immunity – by this means a neutral state excluded politics from the market.⁵⁷ This liberal relationship between the state and market gave a ground for developing the voluntary scheme of collective bargaining. However, as mentioned below, in historiography, historians have shown differentiated understandings of the liberal background behind the establishment of collective bargaining. The chapter, shedding light first upon pitfalls of historiography, attempts to place the political discourse of collective bargaining in the context of Victorian liberalism. By dissecting Liberals' perspectives in legislation of trade unions, which included Mundella's rationale for adopting the voluntary boards of conciliation and arbitration, broader spectrum of liberal virtues was ascribed to meanings of institutionalisation of trade unions as an unincorporated organisation compatible with Britain's official culture of free trade.

A number of historical studies, particularly those about history of trade unionism have seen critically the development of collective bargaining, since its congruent relationship with the growth of capitalism. This trend was conspicuous especially after the publication of *History of Trade Unionism* in 1894 by Sidney & Beatrice Webb. The Webbs cast the growth of 'new model' unions as evidence of the spread of middle-class virtues based on 'free enterprise' and 'unlimited competition'. They considered that this new spirit paved the way for widening the economic gap between union and non-union workers.⁵⁸ The mutual negotiation between employers and trade unions guaranteed 'limited type of freedom', since collective bargaining ended up in laying down regulations upon non-union individuals, whose needs were neglected. The Webbs maintained that this

⁵⁷ R. McKibbin, 'Why was there no Marxism in Great Britain', *English Historical Review*, vol.99, 1984, p.320

⁵⁸ Sidney & Beatrice Webb, *History of Trade Unionism, 1666-1920*, London, 1919 (first pub. 1894), ch. IV

collective solution did not change the status quo, because ‘whenever the economic conditions of both parties concerned are unequal, legal freedom of contract merely enables the superior in strategic strength to dictate terms’.⁵⁹ Therefore, as long as mutually agreed solutions were sought under the voluntary system, the ideological hegemony of the bourgeoisie subordinated trade unions to the market principle of capitalism. In condition of free trade, consumers reaped direct benefits, whereas producers were liable to subject themselves to high pressures of market competition. Only those who could form unyielding combinations were able to thrive by ejecting new competitors from the market, manipulating rules, prices and circulation of commodities.⁶⁰ Their antagonistic tone towards the voluntary framework of collective bargaining was not diminished in *Industrial Democracy*, in which they promoted a highly bureaucratic policy of national minimum. Provided that there was the ascendancy of capital, the boards of conciliation and arbitration were not considered to be a rational measure. Despite the fact that they nullified their own view of interdependence between the new model unions and market economy, they contended that imposition of oppressive common rules as a result of collective bargaining upon industries concerned meant that the individual right to bargain with employers was substituted by regulations of trade unions. At this point, they assumed that there was little difference in the principle between collective bargaining and the boards of conciliation and arbitration:⁶¹

...there has been, until quite recently, no clear distinction drawn between Collective bargaining, Conciliation and Arbitration. Much of what is called Arbitration or Conciliation in the earlier writings on the subjects amounts to nothing more than organised Collective bargaining. Thus the classic work of Mr. Henry Crompton describes, as ‘conciliation’ the typical cases in which

⁵⁹ S. & B. Webb, *Industrial Democracy*, pp.173-221, quotation from p.219

⁶⁰ Ibid., pp.650-790

⁶¹ Ibid.p.223

representative employers and workmen meet to bargain on behalf of the trade. The Nottingham hosiery board, established in 1860, often described as a model of arbitration, was in effect, nothing more than machinery for Collective Bargaining,

This pessimistic interpretation of collective bargaining by the Webbs was shared by later historians of different schools. For instance, the Oxford School historians like Clegg, Fox and Thompson upheld a similar view in their historical analysis of industrial relations. In their detailed study, *A History of British Trade Unions Vol.1*, published in 1964, the development of amalgamated trade societies, whose aim was to stand on an equal footing with their employers, was accompanied by the replacement of traditional customs – what they called ‘mutual insurance’ – of craft societies.⁶² Following the Webbs’ view, they argued that the search for mutual agreements with employers meant trade unions’ acceptance of the capitalist principle and that in proceedings of collective bargaining the employers necessarily took the initiative in the operation of the boards. One distinguishing point is that the Oxford School historians placed an emphasis upon the economic advantages gained by the employers in recognition of working class freedom

⁶² There were differences in arguments among them on the replacement of mutual insurance. The Webbs argued that collective bargaining was an alternative method of mutual insurance. Therefore, primitive democracy of trade unions disappeared and it was replaced by the ‘new amalgamated principle led by the Junta. On the other hand, Flanders (1954) argued that these two procedures were successive and inclusive, but the mutual insurance gradually lost its significance. Trade Unions aimed at putting regulations on the employers’ freedom by having insisted on mutual insurance during industrial disputes. However, such Flanders’ view was severely criticised by Fox (1954), since, Fox argued, Flanders missed the contrast between individual and collective bargaining. For Fox it was more important to take account of the impersonal forces of the market, of which monopolistic labour ‘cartel’ took advantage at the expense of individuals, than simply emphasizing the continuity of mutual insurance. (ibid., pp.152-221. A. Flanders, ‘Collective Bargaining’, in Flanders and Clegg (eds.), *The System of Industrial Relations in Great Britain, its History, Law and Institutions*, London, 1967, pp.260-272. A. Fox, ‘Collective Bargaining, Flanders and The Webbs’, *British Journal of Industrial Relations*, vol. xiii, 1975, pp.151-174)

to combine with each other. From this point of view, Mundella was seen as one of employers who 'saw that the unions might prove useful partners in mitigating competition'.⁶³ In contrast to the Webbs, who stressed the repressive realities of collective regulation, the Oxford School historians believed that consequential failure of market economy was possible to be modified by producers' co-operation – the tripartite relationship between the employers, trade unions and the state. Therefore, instead of blaming the system of market economy, institutional disintegration was considered to be a more significant cause of economic division, which was demonstrated by antagonism between 'official' and 'unofficial' members of trade unions.⁶⁴ In this sense, the system of collective bargaining was initially seen to maintain desirable economic conditions, because its sound operation accommodated different economic interests.

Both the Webbs and Oxford School historians saw that the making of the system of collective bargaining was an aspect of the growth of a capitalist economy. The third significant historiographical tradition of 'labour aristocracy', which derived from the Marxist principle of historical materialism, also shared this viewpoint. Like the Webbs, this Marxisant view saw the progress of trade unionism as the process of working class subordination to capitalism. Shorn of revolutionary sentiments, trade unions were categorised as docile and obedient organisations.⁶⁵ The label of 'labour aristocracy', which Marxist historians like Hobsbawm preferred to use, was rooted in their comparatively affluent and prestigious status and successful adaptation to one of the most

⁶³ H. Clegg, A. Fox & A. Thompson, *A History of British Trade Unions Since 1889, Vol.1, 1889-1910*, Oxford, 1964, p.24

⁶⁴ *Ibid.*, pp.43-8

⁶⁵ R. Price, 'The labour process and labour history', *Social History*, vol.8, 1983, pp.57-75

important Victorian values of ‘respectability’.⁶⁶ Whether the economic condition of labour aristocracy helped to develop ‘class consciousness’ within the working classes was an issue of controversy among them. Some denounced the ameliorative attitudes of trade unionism and bemoaned working class assimilation to Labourism.⁶⁷ Others considered the collectivist policies of trade unions and friendly societies beneficial for fostering solidarity among workmen. The latter historians believed that the growth of capitalism would deprive craft workers of skills and, therefore, they would lose an advantageous position to form collective protection. In this reading, pre-industrial traditions and old skills were challenged by the development of technologies and craft workers were finally dissolved into the proletarian culture.⁶⁸ E.P. Thompson argued that capitalism replaced the pre-modern moral norms of communally-bound society with the inhumane relationships of industrial order, based on the wage-nexus between capital and labour.⁶⁹ The formation of industrial partnership was just a temporary expedient, as it would follow the fate decreed by Marxist determinism. Instead of the restoration of traditional values, the focus of negotiation was placed on the question of wage rates and workmen came to understand that they were mere wage earners who only possessed their labour to sell. In

⁶⁶ E. Hobsbawm, *Worlds of Labour*, London, 1984, ch.12,13

⁶⁷ ‘During the third quarter of the nineteenth century, with the collapse of the Chartist movement, there evolved in the vacuum thus created a labourist ideology among working men subordinate to the dominant ideas of the bourgeoisie, and this ideology thrust increasingly deep roots down into the soil of British society as the decades went by....At best working-class radicalism was a limited and partial society. Labourism, as it developed through the third quarter of the nineteenth century, was a theory and practice which accepted the possibility of social change within the existing framework of society; which rejected the revolutionary violence and action implicit in Chartist ideas of physical force; and which increasingly recognized the working of political democracy of the parliamentary variety as the practicable means of achieving its own aims and objectives.’ (J. Saville, ‘The Ideology of Labourism’, in R. Benewick (ed.), *Knowledge and Belief in Politics*, London, 1973, pp.214-5.) T. Rothstein, *From Chartism to Labourism*, London, 1984 (first pub. 1924), pp.183-201

⁶⁸ E. Thompson, *The Making of the Working Class*, New York, 1966 (first pub. 1963), pp.497-521. Hobsbawm, op.cit., pp.214-72

⁶⁹ E. Thompson, *Customs in Common*, New York, 1993, pp.1-15, 185-258

consequence, the further working class alienation progressed, the more the outcomes of collective bargaining would fail to meet rank-and-file demands.⁷⁰

With its focus on inevitable proletarianization, these analyses regarded collective bargaining as useful for buffering the impact of accommodating the working classes to the capitalist values. Ditching pre-industrial values, the institutional settlement by collective bargaining drew a fault line between the ‘incorporated’ competitors and ‘ruled-out’ under-cutters. For both capital and labour, the establishment of the boards was an attempt to stabilize the market at the sacrifice of the excluded. However, it is worth questioning whether, when establishing the boards of conciliation and arbitration, Mundella intended to respond to the demands for the growth of market economy and, as these traditions of historiography suggested, to legitimate miserable outcomes of market economy by the adoption of the intangible economic law. What these historians called ‘collective bargaining’ needs to be distinguished from Mundella’s scheme of conciliation and arbitration. Mundella rather appreciated the view of Adam Smith, who in *Wealth of Nations*, suggested that the healthy state of economic liberalism was susceptible to structural or institutional bias. Smith pointed out that the existing unequal conditions between capital and labour would deter the procedure of economic bargaining from reaching the price determined by free operation of the market. These inequities were embodied by institutional factors, which defined the legislative terms of combinations and economic prerogatives of capital.⁷¹ From this humane Smithian viewpoint, it is worth examining the context of institutional formation of collective bargaining, as the evolution

⁷⁰ P. Joyce, *Visions of People – Industrial England and the Question of Class, 1848-1914*, Cambridge, 1991, pp.92-138

⁷¹ Smith, op.cit., pp.82-85. Johnson, op.cit., p.69

of institutions was highly contingent on contextual factors. While mediating, transmitting and implementing existing values, institutions would produce new meanings and definitions at the same time.⁷² Revisiting Mundella's cause of the boards of conciliation and arbitration, which succeeded in gathering legitimacy by making use of the rhetoric of political economy, the historical origin of the establishment of the boards of conciliation and arbitration will show a different vision from these historiographical traditions.

1.2. Legislative Conditions of Trade Unions

Historically it was not at all a novel way to seek mutual agreement between capital and labour as solutions for industrial disputes. There were examples as early as in the age of medieval guilds of finding a compromise such as making and revising lists of wage rates through mediational methods. Over time, however, steps were taken in to limit the collective action of employees. The Statute of Artificers of 1563 was enacted to define maximum rates and to regulate the number of apprenticeship, which resulted in giving greater power to the Justices of the Peace and local magistrates as delegates of parliament and regulators of trade in districts. This act was complemented by a series of the Combination Acts and the common-law conspiracy theory, which aimed to restrict collective action of workmen. These Combination Acts and the Arbitration Acts were envisaged to replace strikes with compulsory arbitration. However, before the end of the eighteenth century, the tide of state intervention in wage settlements was gradually abated due to the increasing number and greater mobility of wage earners. It became difficult for

⁷² E. Green & D. Tanner, 'Introduction', in E. Green & D. Tanner (eds.), *The Strange Survival of Liberal England, Political Leaders, Moral Values and the Reception of Economic Debate*, Cambridge, 2007, pp.1-33

the central authority to bring industrial disputes under control after the growth of industrial economy, which led to sharper contrasts and fluctuations of wage rates between different regions. As a result, the Statute of Artificer and Combination Acts were substantially nullified and the *laissez-faire* attitude shown by the state encouraged workmen to rely on voluntary measures.⁷³

Although ending up as ephemeral expedients, joint industrial boards were set up in a range of industries from the 1830s. For instance, the printing and bookbinding industries introduced the practice of discussion on trade issues with representatives of workers and employers as early as in 1834.⁷⁴ The silk trade in Hawick, Scotland, made a price list in joint negotiations in 1833, while the textile of Glasgow and Paisley respectively held an annual conference for revising prices from 1834. The carpet manufacturers of York and Durham organized annual meetings for fixing wage rates with delegates of workmen in 1839. In the same year the Order of the Society of Friendly Boilermakers decided the arbitration procedure with their employers.⁷⁵ In Nottingham, William Felkin translated the account of the standing arbitration system in France, the *conseils des prud'hommes*, in 1834. Felkin, who was a founder of provident societies, a merchant and lace

⁷³ Reid, op.cit., pp.6-17. K. Brown, *The English Labour Movement 1700-1951*, Dublin, 1982, p.71. I. Sharp, *Industrial Conciliation and Arbitration in Great Britain*, London, 1950, pp.273-5

⁷⁴ When they established the board, they declared that 'let the Compositors of London show the Artisans of England a brighter and better example; and casting away the aide to be derived from cunning and brute strength, let us, when we contend with our opponents, employ only the irresistible weapons of truth of reason'. (Report of London Compositors Committee on Amalgamation, 1834; Annual Report, Feb.2, 1835, cited in Webb, *History of Trade Unionism*, p.196) The Secretary of the Consolidated Secretary of the Book Binders, Dunning later argued that 'but, after all, the true position of employer and employed is that of amity. They are each, notwithstanding these occasional disagreements, the truest friends of the other, and neither can inflict and injury on the other without its reconciling on himself. Capital and Labour should go hand in hand'. (T. Dunning, *Trades Unions and Strikes: Their Philosophy and Intention*, London, 1860, p.26)

⁷⁵ Sharp, op.cit., pp.1-2

manufacturer in Nottingham, believed that it was possible to foster ‘a sense of community’ by mutual efforts between capital and labour. While advocating the moral outlook of evangelicalism and the principle of Christian political economy, he adhered to the faith that individuals including working men could be enlightened by their moral elevation. Thus, the harmonious assumptions of classic political economy were to be achieved ‘in moralistic and high minded form’.⁷⁶ Ten years later Felkin submit a paper in regard with the formation of the industrial boards to the British Association for the Advancement of Science. It was under his influence that the Nottingham hosiery union petitioned the parliament for founding the courts of conciliation and arbitration in 1845.⁷⁷ However, as Mundella insisted, there was a characteristic difference between the system of the French *conseils des prud’hommes* and his boards of conciliation and arbitration:⁷⁸

Some stupid people keep writing about the *Conseils Des Prud’hommes* and identifying them with courts of arbitration. There is no resemblance between the two. The former are merely third parties constituted as a court to settle disputes that have arisen out of past transactions. The latter consist of the parties themselves not merely settling past questions, but arranging the rates of labour and all questions arising therefrom the future.

Apart from seeing the boards of conciliation and arbitration rather as a preventive measure than remedial one, one distinguishing aspect of Mundella’s scheme was its recognition of economic organizations of labour as essential to the peaceful and friendly procedure. Trade unions were seen as helpful for business management. However, they had long been regarded as illegitimate organisation as the liberal orthodoxy of individualism

⁷⁶ Tholfson, op.cit., pp.135-40

⁷⁷ Allen, op.cit., p.238

⁷⁸ Mundella-Leader Correspondence, A. J. Mundella to R. Leader, 3 September 1868, cited in Armytage, ‘Mundella and the Hosiery Industry’, p.98

defined them as 'in restraint of trade'. While friendly societies were legally admitted by the end of the eighteenth century, trade unions were still prosecuted under the existing Combination laws and common law of conspiracy. In the 1820s, allied with middle class radicals such as Joseph Hume and J.R. McCulloch, Francis Place, a journeyman tailor and a leading member of London Corresponding Society, attempted to repeal the Combination Acts. He insisted on freedom of contract through the abolition of inequity of the law.⁷⁹ In consequence, the repeal of the Combination Act in 1824 enabled workmen to combine with each other and bargain with their employers in collective forms. Still, they had to face hardships as a result of legal inequalities. The Amendment Act of 1825, passed by Peel, was designed to penalize trade unions' 'molestation and obstruction' as criminal conspiracies against non-union members. Moreover, under the Master and Servant Act of 1823 employers were able to prosecute employees who breached contract. Thereafter, its coverage was expanded into a wider range of industries and involved coalmining, building, printing, transport, engineering, tool and cutlery making, glass and pottery manufacture, coach building, the iron industry, boiler-making and common labouring.⁸⁰ The 1843 Wages Act applied criminality of breach of contract further to domestic out-workers.

The Master and Servant Acts came to be seen as feudal laws, by which the property owning class could secure an advantage in industrial relations.⁸¹ Under the acts workers breaking the contract were punished as criminals with imprisonment and hard labour, whereas employers were only liable to the civil law sanction of paying compensation. In

⁷⁹ Webb, op.cit., p.96

⁸⁰ Johnson, op.cit., pp.75-6

⁸¹ A. Fox, *History and Heritage*, London, 1985, ch.1

addition, the issue more relevant to working class combinations was the criminal law of conspiracy, which impeded them from acting collectively by imposing charges of ‘intimidation’.⁸² According to George Howell, a shoemaker and later the first secretary of the Trades Union Congress, apart from persons at the meeting with the employers, ‘all other combinations and agreements to the prejudice of the third persons are still conspiracy’.⁸³ Before the reform act of 1867, trade unionists, rather than seeking legal recognition, needed to secure freedom from legal threats to their common interests, because it was obvious that whether workers’ combinations were sued or not was predicated upon the employers’ discretion. Looking back at the situation, Howell, in his book *Labour legislation, labour movements, and labour leaders*, published in 1902, argued that “‘the Law of England, as respects combinations”’ has[d] not given the protection which was needed’.⁸⁴

Despite their extra-legal status, trade unions grew in strength after the repeal of the Combination Acts. The primary purpose of workmen’s associations was to protect independence of labour as producers by providing the mutual assurance of ‘self-help’.⁸⁵ Some London artisanal societies formed clandestine groups and fulfilled the trade union functions under the cloak of the friendly societies.⁸⁶ After the two major political uprisings of the 1840s – the Chartist movement and the free traders’ demand for the repeal of the Corn Laws – what the Webbs called the ‘new-model’ unions started to appear in craft trades – engineering, printing, bookbinding and building – as well as in seniority

⁸² D. Simon, ‘Master and Servant’, in J. Savile (ed.), *Democracy and the Labour Movement, Essays in Honour of Dona Torr*, London, 1954, pp.160-173

⁸³ G. Howell, *Labour legislation, labour movements, and labour leaders*, London, 1902, p.84

⁸⁴ Ibid., pp.80-1

⁸⁵ G. Howell, *The Conflicts of Capital and Labour*, London, 1980 (first pub. 1878)

⁸⁶ Webb, op.cit., p.87

trades based on piecework – coal-mining and iron and steel. Local bodies were gradually merged into the amalgamated unions. Taking advantage of these more coordinated bodies, they adopted systematic ways to manage personal records of subscriptions and benefits and consolidated local funds for more efficient accumulation and payment of mutual insurance such as sick pay and superannuation, both of which were important for attracting and sustaining the members of unions. In some cases full-time officials were appointed as administrators. Outsiders were impressed by their large size of strike funds, which eluded government's supervision.⁸⁷ One of the most outstanding examples was the Amalgamated Society of Engineers (ASE) established in 1851 in the north-west. The ASE did not change significantly the basic functions of local unions: they continued to restrict the number of apprenticeship; provide insurance-based relief for members suffering from unemployment, sickness and accidents; and negotiate with employers in terms of conditions of work. These institutional shifts were considered to be important to increase the bargaining strength of trade unions.

Unions' commitment to politics was increased by sharing their concerns at interactive forums. Pioneered by the London Committee of Trade Delegates (LCTD), regional or national coordination of trade unions of different industries began to be appreciated. Although its influence was confined to trade unions in London, when the National Association of United Trades for the Protection of Labour was established after the LCTD in 1845, its participants shared the view that in order to vindicate the rights of labour it was important to strive for equality before the law. Under the president of Thomas Duncombe, an aristocrat-cum-chartist, they discussed issues relating to how to protect

⁸⁷ Curthoys, op.cit., pp.60-3

interests and promote the well-being of associated trade unions through mediation, arbitration and legal proceedings.⁸⁸ Moreover, in the late 1850s federative bodies of trade unions – trade councils – were established in the major cities such as London, Sheffield, Edinburgh, Dublin and Birmingham. These councils influenced trade union policies and activities. Adopting economically rational measures, they tended to see strikes as the last thing to which trade unions should resort. In particular, the London Trade Council engaged directly in national politics and targeted removal of the legal obstacles, under which trade unions laboured. The leading figures were contemptuously called by the Webbs a ‘Junta’, representatives from craft societies – Robert Applegarth of the carpenters and joiners, William Allan of the engineers, George Odger of the shoe-makers, and Edwin Coulson of the bricklayers. After the failure of the London building dispute in 1859, in which the Joint Committee of Carpenters, Masons, and Bricklayers attempted to shorten hours of work and defend the right of labour to combine, the Junta began to seek franchise extension as a prerequisite for changing the existing labour laws, which thwarted workers from standing on equal terms with their employers.

Mundella insisted on the importance of combinations of labour. He believed that since combinations among employers were tacitly acknowledged as commonplace, it was difficult for workmen to talk on equal terms without allowing their combinations. Denying the criticism that giving the right to combine would give labour an advantage over capital, Mundella cited some phrases of the father of political economy, Adam Smith, and argued that repudiation of combinations of labour meant the deprivation of

⁸⁸ Webb, *op.cit.*, pp.177-190

workmen's liberty:⁸⁹

I sincerely believe this, and maintain that any restriction or infringement of this right would be in contravention of the liberties of the subject, and dangerous to the best interests of society. But there are limits beyond which liberty becomes license; and these limits are well defined by the author I have referred to. "But when," he says, "workmen have power to refuse to employ themselves on terms of which they disapprove, they have got all in this respect to which they are entitled. None of them have any right to dictate to their fellows; or to say that because they object to certain stipulations in the terms offered by such and such employers no one else shall be allowed to accept them. A pretension of this sort strikes at the very foundations of society."

Trade unions were the 'inevitable outgrowth of this freedom'. Behind Mundella's affirmative attitude to workmen's combination, there were two firm convictions. First, he believed that workmen's labour was sacred and inviolable property, which no one could abuse without violating the law of property. As a co-entrepreneur of a hosiery firm, Mundella upheld the view that it was workers who were crucial to the prosperity of the industry and were enthusiastic about adopting the way to improve their standard of living and productivity.⁹⁰ Second, Mundella regarded strikes as a 'sad necessity' of industrial disputes, which ended up in national calamity. Having experienced, in his younger days, fearful privations caused by large contributions to union funds during strikes, he believed that strikes and lock-outs led to demoralising state of both capital and labour. From this point of view, it was important to set up a system useful for reconciliation of the relationship between capital and labour, in which they could meet together for the common ground, 'with the honest desire to arrive at the truth, and to do justice to each

⁸⁹ *The Sheffield & Rotherham Independent*, Oct. 22, 1867

⁹⁰ 'in nearly every case it was the man who stood before the loom and who brought his brains to work upon it who had been the means of improving it'. (Armstrong, 'A. J. Mundella and the Hosiery Industry', pp.95-7)

other' for then 'a good understanding is almost sure to follow'.⁹¹

In general, trade unions were thought to be purely economic organizations of labour, whose morale was neither affected by politics nor religion. Their retreat from Chartist insurrectionism after the Plug Plot riots turned them into 'essentially non-political and non-sectarian' units, whose *raison d'être* was to protect their wages and workplace conditions.⁹² The traditional motto of trade unions, 'a fair day's wage for a fair day's work', was based upon what they believed the moral right of labour. After the repeal of the Corn Laws their demands, merged increasingly with the 'bread and cheese questions', were overlapped with the currents of radicalism.⁹³ As the Nonconformist tradition of equality before the law was recalled in the anti-Corn Law movement, the Nonconformist churches, which were concerned with the miserable result of the 1851 religious census, made a direct commitment to the establishment of organizations of labour, since they considered that the preservation of working class independence by activities of voluntary associations was a key of civilization. They considered that moral values like self-dependence and self-respect were to be fostered by associative efforts of individuals. Therefore, except those seeing trade unionism as protectionism contrary to individual freedom, Nonconformists largely supported trade unions in their campaign for amendments to the labour laws, as they believed that labour should be allowed to combine

⁹¹ *The Sheffield & Rotherham Independent*, Oct. 22, 1867

⁹² Howell, op.cit., p.162

⁹³ This is clear from a comment of Thornton Hunt, who was a radical publisher. Hunt declares his view on wages, which was almost identical to the trade union demands: 'a fair day's wage for a fair day's work on land, in factory and shop; the claim to relief from taxation by transferring it from industry to property; and the claim to improvement of the laws regulating labour – the laws of combination, partnership, contracts and the like.' (R. Clements, 'British Trade Unions and Popular Political Economy, 1850-1875', *Economic History Review*, vol.14, 1961, p.97)

freely and act collectively to struggle for fair wage rates and better conditions, insofar as they would not obstruct other individuals. For them, the prohibition of freedom of association by laws simply meant the failure of liberal institutions. In prompting Liberal politicians to promote the cause of trade unionism, they championed the principle of conciliation and arbitration, since it was seen as a favourable way to evade illiberal conditions, in which individual rights were violated. They argued that independence of individuals could further be strengthened through collective self-help.⁹⁴

1.3. British Positivism and Trade Unions

Mark Curthoys' *Governments, Labour and the Law in Mid-Victorian Britain*, published in 2004, examined in detail the formation of the 'official mind' in the process of legislative recognition of trade unions. What became an ideological instrument to break down the theoretical stronghold of the individualist doctrine of political economy was the 'inductivist and historicist' critique espoused by 'friends of labour' such as J.M. Ludlow, Thomas Hughes, Frederic Harrison and Henry Crompton – the intellectuals of Broad churchmanship labelled as Christian Socialists and Positivists. Their approaches to trade unionism were developed in reaction to the ascendancy of the Evangelical principles. Denouncing the 'civilisation' based upon the Enlightenment, as the disciples of August Comte, they believed that the true progress would be achieved by the development of the 'true religion', namely, Christianity.⁹⁵ Therefore, on the basis of their rationale of the

⁹⁴ They shared the notion that the scheme of conciliation and arbitration 'the way forward to a new era of industrial relationships in which unions would be unnecessary'. (K. Brown, 'Nonconformist and trade unionism: the Sheffield outrages of 1866', in Biagini & Reid (eds.), op.cit., pp.101-104)

⁹⁵ C. Harvie, *The Lights of Liberalism, University Liberals and the Challenge of Democracy*,

religion of humanity aiming at reconciling scientific developments with religious conscience, there was a cardinal rule of morality by order, whose emphasis upon intellectualism had a strong correspondence with the ongoing established intellectual traditions of Coleridgian elitism and Carlylian industrialism. Regarding the French Revolution as the consequence of social exclusion, these schools of thought adopted ideological frameworks of harmonic and unifying orientation, in which the creation of an ‘organic community’ or ‘national unity’ was anticipated through the endowment of providential institutions. From this point of view, the economic organization of labour was regarded as playing an important role in educating workmen to develop collective identity as a part of the nation. It was meaningful to juxtapose the conscience of non-conformists with that of the establishment, on the grounds that Comte saw that the uncultivated virtues of the working classes, which were frugal, disinclined to earthly power and not debased by habits of capitalist society, were highly valuable in his positive stage of history – the last of his hypothetical three steps of human intellectual progress after the theological and metaphysical stages. Thus, in contemplation of the non-revolutionary propensity of trade unionism, Comtist intellectuals were keen on giving an unrelenting support to its cause as acceptable instruments to preserve the institutions of providential order.⁹⁶

Both Christian Socialists and Positivists were gradually entangled with the trade union movement notably after the London engineering disputes in 1851. They felt particular sympathy with the amalgamated trade societies because of their conservative

1860-86, London, 1976, p.35

⁹⁶ C. Kent, *Brains and Numbers, Elitism, Comtism, and Democracy in Mid-Victorian England*, Toronto, 1978, pp.70-83

characteristics. Ludlow was impressed by their ‘really brotherly spirit’ and regarded the 1825 repeal act as a ‘solemn duelling code’ which was considered to be a chief cause of unstable states of industrial relations.⁹⁷ Such sentiments were endorsed and recreated in the discourse of the National Association for Promotion of Social Science (SSA), established by the Henry Brougham in 1857. The SSA was a forum for various social issues attracting figures who later became liberal reformists, including advanced employers like Mundella and Thomas Brassey, trade unionists like Applegarth and T.J. Dunning, advocates of the co-operative movement, G.J. Holyoke and Lloyd Jones and Comtist intellectuals, Ludlow and Harrison. They forged a consensus that trade union activities, though ‘in restraint of trade’, were necessary for the harmonious relationship between capital and labour. Its report, *Trades’ Societies and Strikes*, issued after an investigation of trade societies in 1860, formed a basis of the empirical approach by attesting that in reality combinations of labour were an economically rational strategy which was useful for educating workmen and that strikes were justifiable means, which the theory of supply and demand should take into account.⁹⁸ These accounts later had a significant influence upon Henry Thring’s official endorsement of legalizing combinations of labour, in which the Home Office Counsel was convinced by F.D. Longe’s renouncement of the wage fund theory two years before J. S. Mill’s recantation was made widely known.⁹⁹ This implied that the orthodox rule of political economy was no longer considered to be plausible to determine trade union policies. It was obvious that the judgment of the *Hornby v. Close* case, which placed trade unions outside the

⁹⁷ Curthoys, op.cit., pp.55-7

⁹⁸ L. Goldman, *Science, Reform and Politics in Victorian Britain, The Social Science Association 1857-1886*, Cambridge, 2002, pp.201-213. Curthoys, op.cit., pp.52-3

⁹⁹ Ibid., pp.74-80

application of the Friendly Societies Act, was seen by Hughes and Harrison as repugnant to the direction of the SSA's report. These pro-union intellectuals saw the growth of trade unionism as a natural reaction by labour to the unrelenting progress of individualism, which had been depriving the latter of economic safeguards.¹⁰⁰ In the Erle's commission they helped Applegarth to fend off the cross-examinations of an anti-union M.P., J.A. Roebuck and to give empirical evidence of 'respectable' unions.¹⁰¹

While the majority report of the Royal Commission on trade unions originated from the utilitarian premise of individualism and, hence, proposed to impose restrictions upon unions by distinguishing their benefit functions from trade funds as a condition of registration, the minority report drafted by Hughes, Harrison and Mundella, aimed to give legal status to all trade societies and extend the coverage of the Friendly Societies Act. The latter became a rallying point of radicals and they organized a lobby, which was strong enough to convince H.A. Bruce, the Home Secretary, to re-introduce a bill outlined by a Positivist Home Officer, Godfrey Lushington who adopted substantially the line of the minority report.¹⁰² The Positivist intellectuals believed that once trade unions were recognized 'by the law and the public opinion, their laudable characteristics – public spiritedness, mutuality, and "heroic struggles for the good of their order" – would be acknowledged...'. However, to achieve this aim, they understood that the Trade Union Act of 1871 had to secure the immunity of trade unions from prosecution as a corporate body, since the full incorporation was considered to be an inadequate measure for

¹⁰⁰ Ibid., pp.103-4

¹⁰¹ A. Humphrey, *Robert Applegarth, Trade Unionist, Educationist, Reformer*, London, 1984, pp.153-5

¹⁰² H. McCready, 'British Labour's Lobby, 1867-75', *The Canadian Journal of Economics and Political Science*, vol.xxii, May 1956, p.143

associations, which were not formed as commercial purposes and unable to bear financial burdens. Crompton, a Positivist barrister, and Harrison argued that the policy of incorporation was undesirable for voluntary solutions as it would strip a right to pursue their private interests by imposing public regulations.¹⁰³

The 1871 act was a triumph of the voluntary principle of trade unionism, by which spontaneous actions of its members were to be safeguarded. However, when historians examine an impact of Positivism on this process of validation of British voluntarism, it is not satisfactory to take into consideration solely the solemn account of the execution of moral order by authority, which assumed that orderly society would appear after the pervasion of morality through the institutional nexus. The British context of Positivist traditions had a broader sense than the conventional Positivist studies have suggested. One outstanding argument was presented by Jocelyn Betts, whose historical surveys pointed out the failure of ‘official’ economic culture to embrace the reality of civil society. Betts has argued that the credibility of Mill’s co-operative economy was undermined by the decline of democratic values of co-operation, which was supplanted by economic interests in private firms in the 1890s. Its failure to take account of the importance of entrepreneurship was fatal to his theory. By contrast, those, deep admirers of Comte and Carlyle – Harrison and Edward Beesly – were not hesitant, when declaring their support to the cause of trade unionism, to envisage the uninterrupted progress, not of ‘working class independence’, but of its ‘purely economic arrangements of practical convenience’.¹⁰⁴ It was clear that their ultimate end was to entrench ‘correct moral

¹⁰³ Curthoys, op.cit., pp.121-122

¹⁰⁴ Betts, *The business enterprise in mid-Victorian social thought*, p.155

leadership in industry'.¹⁰⁵ The flowering of entrepreneurship disclosed Mill's theoretical fallacy of co-operative values as annexation of working class radicalism to the orthodoxy of political economy.

For Betts, Mill's theoretical premise of economic co-operation was not based on practical needs for moral leadership but on ideological utopia. Mill shared the Saint-Simonian thought which was a premise of both Comte and Carlyle to avert social exclusion leading to revolutionary militarism, but rejected their ideal of an orderly society founded upon hierarchical apparatus. Their difference in visions was obvious in their attitudes towards political economy. For those who oriented towards industrialism – the unification of economic organisations under the jurisdiction of the government – political economy was a discursive field leading to atomism. On the other hand, Mill's ultimate goal of co-operative society was not severed from the traditional principle of political economy. Inheriting the basics of the discipline from his father, James, and Ricardo, John Stuart Mill maintained that 'the spirit of equality and love of individual independence' was to be fostered not by moral leadership but by competition. Mill's theoretical arguments were formulated by the laws of the market, whose Ricardian rhetoric of industrial capitalism implied that moral degeneration accompanied by the Malthusian pitfall of stationary state was to be overcome by the growing power of masses increased after the competition. From this point of view, securing independence of members, economic organizations of labour were not deemed to be the means to achieve the convergent state of the nation, but rather to disseminate 'decentred public virtue'. For Mill, an ultimate aim of co-operation was to seek democratisation in business ownership and the workplace, in which labour

¹⁰⁵ Betts, 'John Stuart Mill, Victorian Liberalism and the Failure of Co-operative Production', p.17

could learn ways to gain independence, self-control and ownership and finally become trustworthy enough to participate in management of joint enterprises. Among the Millian circle including Fawcett and William Thornton, trade unions, fostering the contractual relationship between capital and labour, were considered to be an educative milestones to the co-operative economy.¹⁰⁶

Suggesting a broader set of ideas about British positivism, the rest of this chapter aims to show an alternative interpretation underlying the enactment of the Trade Union Act of 1871. Although not suggesting reasons of the ideological collapse of Mill's ideal of co-operative economy, a close examination of the contextual development of the Positivist tradition in Britain will reveal a historical trajectory, in which this broader re-interpretation ensures that the official economic culture incorporating Millian political economy had been successful in accommodating demands of working class radicals. What is necessary to verify this argument is a shift in the historical focus from the discussion of rationality at metaphysical levels to that of embodiment of ideas in institutions. By looking into the economic subculture of industrial relations a reason behind the legal recognition to trade unions will not be solely understood by the practical motive of self-interests, as some Positivists who were followers of Comte and Carlyle proclaimed. Alternatively, Mundella's democratic prospective of industrial boards of conciliation and arbitration was formed by more arational values based on his broader accounts of altruistic and selfless propositions, which became another rallying point of the minority report.

Research in social science has suggested that disparities of power were not to be fixed,

¹⁰⁶ Betts, *The business enterprise*, pp.7-64, 'John Stuart Mill', pp.7-19. Harvie, op.cit., p.41

but amended by the economic bargaining or by the party politics in democratic constitutions.¹⁰⁷ Its validity was revealed once historians of industrial relations like Alastair Reid and Jonathan Zeitlin examined the working class politics of the division of labour. They stressed the popularity of liberal values within many working-class communities.¹⁰⁸ These values were said to have been embodied by the process of reaching consensual contracts through collective bargaining, in which working classes struggled for the demarcations and conditions of work. However, as mentioned above, in the early nineteenth century the inequity of laws still restrained them from standing on the same ground with their employers. The Gladstonian Liberals accepted the principles of co-operative societies and trade unions as their twin tactical pillars of promoting working class independence in the 1860s. With the watchwords ‘self-defensive Individualism, made attractive by amity, strengthened interest, and rendered effective by association’, they advocated ardently the sense of social solidarity in order to influence behavioural patterns of people in the lower ranks.¹⁰⁹ At that time the increasing demand for enfranchisement supplied an opportunity to cement the political alliance between the Liberal reformers and trade unionists. For trade unionists the extension of enfranchisement was imperative for securing equality with employers before the law. Applegarth believed that the campaign for manhood suffrage was equivalent to the

¹⁰⁷ C. Sabel, ‘The Ambiguities of Class and the Possibility of Politics’, in A. Liebich (ed.), *The Future of Socialism in Europe?*, Montreal, 1978, pp.258-9

¹⁰⁸ A. Reid, *Social classes and social relations in Britain 1850-1914*, Cambridge, 1992, ‘Dilution, trade unionism and the state in Britain during the First World War’, in S. Tolliday & J. Zeitlin (eds.), *Shop floor bargaining and the state – Historical and comparative perspectives*, Cambridge, 1985, ‘The Division of Labour and Politics in Britain, 1880-1920’ in W. Mommensen & H. Husung (eds.), *The Development of Trade Unionism in Great Britain and Germany, 1880-1914*, London, 1985. J. Zeitlin, ‘Industrial Structure, Employer Strategy and the Diffusion of Job Control in Britain, 1880-1920’, *ibid.*

¹⁰⁹ Biagini, *op.cit.*, p.143

struggle for citizenship. Alongside the established argument of ‘no taxation without representation’, he expounded the idea that three policies – political power, educational opportunity and expansion of co-operation – were imperative to liberate the working classes.¹¹⁰ He set up the Manhood Suffrage and Vote by Ballot Association in 1862, which was later merged into the Reform League. Largely working class in membership, the League demanded for universal male suffrage – ‘every resident and registered adult male person’. The League worked closely with the National Reform Union, which was composed mainly of members of the Liberal party and demanded the reform confined to ratepayers including ‘respectable’ working men. George Howell, the secretary of the League, supported pro-union Liberals such as Hughes, Mill, and Joseph Cowen during the 1865 election. After the rejection of the reform bill introduced by Russell and Gladstone in 1866, the League launched demonstrations and public meetings on a large scale in major cities. It was at this critical moment that the legal status of trade unions came into the limelight because of two controversial incidents: the Sheffield outrages of 1866 and the *Hornby v. Close* case of 1867.

Both cases posed a question for the cause of trade unionism. The Sheffield outrages aroused public suspicion on the cause of trade unionism after an explosion of a house of a workman, who seceded from the local Saw Grinders’ union during a strike. On the other hand, the judgment of the *Hornby v. Close* case excluded trade union funds from the coverage of the Friendly Societies Act of 1859, which meant that trade unions were no longer qualified to charge against unlawful embezzlement. In face of these adversities, the reformist alliance needed to prove that trade unions were not inherently coercive

¹¹⁰ Humphrey, op.cit., pp.48-59

bodies, operating ‘in restraint of trade’. The crux of this problem lay in the extent to which combinations of workmen restricted the freedom of individuals. There was a strong view that prohibition of picketing was indispensable for keeping the market immune from obstacles limiting ceaseless flows of individual labour.¹¹¹ The orthodoxy of political economy still regarded collective action of workers as incompatible with its doctrine of the providential law: the common interests of the public would be threatened, when the right of individuals to pursue their own interests was disrupted by, in this case, trade unions. On the other hand, the reformist alliance agreed that working class organizations like trade unions would promote the common interests, because, in Applegarth’s words, they would transmit ‘man’s duty to man’ and help to engender the spirits of self-reliance, mutual aid and solidarity.¹¹² Especially, it was the long-lasting zeal of trade unionists to have the direct interests in industrial issues and to deepen mutual understanding between capital and labour. At this point, the dynamism of civilisation was going to puncture the myth of political orthodoxy – the economic rule of market individualism, whose political economy was corroborated by the existing legislative framework of class-biased laws founded upon the feudal values of masters and servants. Its theorem became contradictory, when labour began to seek the equality before the law, since it was clear that the end result of political economy, the harmony of different interests, lost its validity as long as it did not take account of collective bodies of labour.

True, Curthoys has examined in detail the process, in which the restrictive measures of the majority of the committee – compulsory registration with the separation of welfare and trade funds for registration and conformity of union rules to statute – was emasculated.

¹¹¹ Curthoys, op.cit., pp.50-83

¹¹² Humphrey, op.cit., p.48

Failure of the Russell Gurney's Act, which provided trade unions with protection of their funds, caused grave concern of the committee that for unions there were small benefits of registration to gain. The positivism of the minority report challenged the majority's utilitarian proposition. It freed 'the voluntary, collective forces in society from restriction', which later developed into a concept of 'collective *laissez-faire*'.¹¹³ However, this removal of the restrictiveness of the majority report did not mean that reconciliation between capital and labour was achieved by granting the status of providential institutions to trade unions, which were deemed to be beneficial for 'moralizing' the market. Legitimacy of the minority report was gained, when the perspective of political economy and its concept of the market were known to be embodied by Mundella's voluntary boards of conciliation and arbitration and it formed a rallying point of reformist supporters.

At this point, the question is how far the legislation of the 1870s was informed by ideas of state neutrality. The perspective of giving the status of providential institutions echoes Mckibbin's argument about the effective 'incorporation' of labour. What enabled trade unions to enjoy the unfettered operation of collective bargaining was the successful transmission of the ruling class moral values of fairness and evenness to the working classes through the 'given' institutional privileges under the neutral government.¹¹⁴ In the 1860s the incorporation of the working classes was actually a far-reaching topic discussed especially in association with the enfranchisement issue. There were two international catalysts for this concern for the nationalization of the constitution – Italian unification and the American Civil War. As Harvie has argued for academic liberalism, the British liberal tradition more broadly began to tilt into affirming the incorporation of the working

¹¹³ Curthoys, op.cit., pp.93-142, quotation from p.106

¹¹⁴ Mckibbin, op.cit.

classes. It was Mazzini's concept of 'moral' nationality, which led to a revamp of utilitarian individualism. It developed the concept of ideal citizenship, which would inculcate the merit of co-operation rather than class struggle. In consequence, the orthodoxy of utilitarianism needed to adopt the reform programme of liberalism seeking the civil and legal equality in the 1860s. Moreover, the working class support for the North during the American Civil War provided them with the upper-class confidence in their fidelity to the moral reform of popular government.¹¹⁵ Thus, the notion that alienation from the government would threaten the advancement of society was acknowledged and the working class incorporation into the existing institutions was placed on the political agenda.

It is important to point out that liberal reformists were inclined to become radical as the tide of democracy advanced the cause of liberalism. True, that the Positivists shared with them the view that the working classes had a crucial part to play in ensuring active government. However, while the Positivists aimed to educate the working classes through institutional apparatus, the morale of liberal reformists, of whom John Bright took the initiative, was polemically susceptible to a small group of the Liberal Party, the Adullamite. Its leader Robert Lowe, a 'Foxite Whig', was a staunch believer of the individualist doctrine. Yet, his view was somewhat harsh, as he did not take into account the moral regeneration of utilitarianism.¹¹⁶ He espoused economic liberty, but believed in a role for the government in free-enterprise economy.¹¹⁷ Henceforth, he fiercely opposed the extension of franchise, as fearing intrusion of 'class-biased' opinions into politics and

¹¹⁵ Harvie, op.cit., pp.97-115

¹¹⁶ B. Hilton, 'Utilitarian or Neo-Foxite Whig? Robert Lowe as Chancellor of the Exchequer', in Green & Tanner (eds.), op.cit., p.46

¹¹⁷ Harvie, op.cit., p.152

its consequence of shattered society due to the working class ignorance of political economy.¹¹⁸ Lowe's abhorrence of democracy stimulated the demand for electoral reform. For the reformist liberals the extension of enfranchisement was imperative for more open society. The focal point became the question of legal recognition of trade unions. Providing them with the status of the national institutions was considered to be a vital issue for good governance. The reformists believed that combinations of labour would promulgate moral values, which were expected to become the bases of political education and collective self-help. On the other hand, Lowe detested trade unions 'founded on the right of the majority to coerce the minority' and saw its legal recognition as a portent of monopolization of labour, which he believed, 'far more oppressive and indefensible' than notorious specimens of the Corn Laws.¹¹⁹ All societies in restraint of trade should be illegal. Therefore, in the Royal Commission, he demanded the separation of welfare from trade functions of unions and their rules abided by strict conformity to the law.

As Curthoys has argued, the contribution of the Positivist lawyers was so significant as to defy the proposal of the majority and, instead, promote the view of unions as worth having the advantages of the Friendly Societies without shouldering corporate responsibility. They tried to endorse the view that there was no need for alterations to union rules, nor of interference in management, because the importance of the legal recognition was to transmit the idea of self-reform as a moral duty, rather than imposing legal penalties. In Curthoys' work this view was central to the frame of mind of the minority report, which, he sees, represented reformists' rationale of the incorporation of

¹¹⁸ A. Briggs, *Victorian People, A Reassessment of Persons and Themes, 1851-1867*, London, 1971 (first-pub. 1955), p.256

¹¹⁹ *Ibid.*, p.258

trade societies.¹²⁰ Nevertheless, it is possible to suggest a different and more ‘radical’ point of consensus on the sanction of unions’ incorporation. The other Adullamite, Lord Elcho, thought that the Master and Servant Acts were oppressive, and in co-operation with Alexander MacDonald, the president of the National Miners’ Association, introduced the amendment bill, which became the Master and Servant Act of 1867. Yet, Elcho’s intention was still based on anti-democratic reasonings. He feared the development of trade unionism and though criminality was removed in the case of breach of contract, a penalty of imprisonment was still imposed on labour inflicting damage to personal property. He severely opposed the legal recognition of trade unions and demanded their limit to friendly society functions. The reason of Elcho’s support for labour was twofold. First, he wanted to ‘show up’ the reformist liberals a way to deal with labour. Second, he felt sympathy towards the wretched, which was reflected in his paternalism. For him, it was repugnant to seek legislative solutions, but it was admissible to secure industrial peace through the voluntary framework of boards of conciliation and arbitration.¹²¹

Mundella’s boards of conciliation and arbitration came into the limelight after the commission. His electoral triumph in Sheffield popularised the scheme, as embodying ‘the good and the interest of all classes’.¹²² Mundella believed that his boards would eliminate ‘all danger from trade unions, and had substituted quiet and peace – a perfect Agapemone’ between capital and labour.¹²³ It was evident that Mundella upheld the

¹²⁰ Curthoys, op.cit., p.107

¹²¹ C. Kauffman, ‘Lord Elcho, Trade Unionism and Democracy’, in K. Brown (ed.), *Essays in Anti-Labour History, Responses to the Rise of Labour in Britain*, London, 1974

¹²² *The Sheffield & Rotherham Independent*, Jul.25, 1868

¹²³ *The Hampshire Advertiser*, Mar.7, 1868

orthodox view of Positivism that antidotes to pauperism and crime were to encourage education, co-operation and formation of associations and saw his boards as a means to transmit the moral values of humanity and progress.¹²⁴ However, Curthoys seems to undervalue a distinctive and essential aspect of Mundella's scheme of collective bargaining by laying an overshadowing emphasis upon its role of moralizing of the market.¹²⁵ In fact, this neglects the importance of Mundella's boards. What underpinned Mundella's rationale of advocacy of his boards of conciliation and arbitration was his firm belief in the principles of Protestantism, which were grounded upon 'freedom to all and patronage to none'. He believed that it was the duty of every Englishman to 'wish them all God speed' and declared clearly that the boards of arbitration and conciliation were invented by Christ, who taught him, in the cause of justice and reason, that 'Let both parties act on the principle of "Do unto others as you would that others should do unto you"'.¹²⁶ The main priority of the establishment of the boards was, therefore, to preserve the right and liberty of individuals to 'purchase his own loaf to sustain his own place of worship'.¹²⁷ Through the procedure of collective bargaining, the working classes were expected to learn the operation of economic laws – political economy.¹²⁸ Gladstone also addressed this justification of collective bargaining. He told Mundella that 'they [arbitration and co-operation] are the only systems which do not interfere with the true principles of political economy'.¹²⁹

¹²⁴ *The Sheffield & Rotherham Independent*, Jun. 27, 1868. *The Economist*, Jan. 18, 1868

¹²⁵ Curthoys, op.cit., p.93. Despite a difference in their conclusions, Joyce has argued the same view, Joyce, op.cit., p.109

¹²⁶ *The Sheffield & Rotherham Independent*, Aug. 25, Sep. 1 and Sep. 12, 1868

¹²⁷ *The Sheffield & Rotherham Independent*, Aug. 25, 1868

¹²⁸ *Nottinghamshire Guardian*, Jan. 18, 1867. *The Leicester Chronicle and the Leicestershire Mercury*, May 11, 1867. *Daily News*, Dec. 19, 1867. *The Bradford Observer*, Feb. 6, 1868

¹²⁹ *Daily News*, Mar. 5, 1868. *The Sheffield & Rotherham Independent*, Oct.22, 1867, Mar.20

Mill's recantation of the wage fund theory should not be seen as the state's renouncement of political economy on trade union policies. Rather, as Biagini has argued, it provided the cause of trade unionism with the scientific basis of political economy, which assumed that 'the market price of labour became an undetermined entity which was to be defined by workers and employers in their bargainings'. Given such legitimacy of political economy, trade unions were able not only to 'gain real increases in wages', but also to 'prevent employers from imposing a wage level much lower than the one which have left a fair margin of profit to them'.¹³⁰ At this moment, political economy was inclined not to ascribe outcomes of the market mechanism to the deistic will of optimal choice. Such metaphysical understanding was gradually replaced by more practical and substantial application of the concept of market to 'a nexus of institutions and rules with specific legal definitions'.¹³¹ This means that conjectural accounts of market institutions became exposed to the public and while an influence of trade unions on bargaining procedure was increased, its ultimate judgment was allocated to 'the invocation of public opinion'.¹³² Disconnecting state intervention from trade union activities, Mill's theoretical credibility assured the entrenchment of state neutrality and succeeded in garnering the support of the Gladstonian Liberals such as W.E. Forster, G.J. Goschen and J.D. Coleridge. All of them popularised the notion that trade unions were no longer the threat to free trade or to the state finance. Mill himself declared his support to the minority report in the *Bee Hive*.¹³³

and Oct.22, 1868. *Lloyds Weekly Newspaper*, Oct. 25, 1868

¹³⁰ E. Biagini, 'British Trade Unions and Popular Political Economy 1860-1880', *Historical Journal*, vol.30, 1987, pp.819-822

¹³¹ Johnson, op.cit., p.115

¹³² Thompson, op.cit., p.184

¹³³ *Bee Hive*, Jun.26, 1869, cited in Curthoys op.cit., pp.107-109. There were uncompromising individualist criticism upon trade unionism from Manchester School radicals like Edmund Ashworth, the vice president of Manchester Chambers of Commerce, and James Naysmyth, a Manchester engineer and from Conservatives, like Stephen Cae, and Stafford Northcote.

In this way, the acknowledgement of free collective bargaining became the rallying point in support of the minority report.

Pledging support for the minority report, George Potter, a member of the Progressive Society of Carpenters and Joiners, also consented to Mundella's scheme of conciliation and arbitration for the reason that it would halt 'the tyranny of capital'.¹³⁴ There was a strong antagonism between Potter and Applegarth's Conference of Amalgamated Trade (CAT) particularly after *the Hornby v. Close* case. When the CAT, which Mundella saw as the assembly of 'model' trade unions, introduced the Associations of Workmen bill aiming to secure protection of union funds by deposit of their rules, Potter concerned legal segregation of small and local unions, which Applegarth detested as 'strike societies', and launched a separate conference at St Martin's Hall. However, in terms of the Trade Union Bill, Potter formed a united front with the CAT, which later became a base of the establishment of the Trades Union Congress (TUC). Potter explained the reason behind his backing of the bill as follows:¹³⁵

If boards of arbitration of a character to be effective for the prevention of strikes and lock-outs should ere long be established, the men would hail them as a great boon. But who can close his eyes to the fact that the working-men of this country are more dependent upon the capital of others...? And this state of things will inevitably continue until they insisted upon the enactment of such laws as, in the language of the late Mr. Cobden, will enable them to turn over the furrows of their own freeholds, from which they have long been practically excluded.

Upholding the traditional trade union motto of 'a fair day's wage for a fair day's work', Potter believed that to seek mutual agreement between capital and labour was the best

¹³⁴ G. Potter, 'The Trade Societies of England', *Contemporary Review*, xiv, 1870, p.427

¹³⁵ G. Potter, 'Strikes and Lockouts', *Contemporary Review*, xv, 1870, p.41

way to preserve the best value of human beings – ‘independence’.¹³⁶ Combinations of labour were ‘unassailable in respect of principle’, as it enabled to give ‘a full justification of the workman’s claim to make his own bargain’. In this sense trade unions would enable ‘the weaker and less capable members of the different trades and occupations’ to ‘have the greatest interest’.¹³⁷ It was misleading to portray collective bargaining as imparting privileges or requiring legal incorporation. On the contrary, Potter regarded it as beneficial for adjusting the rate of wages to the ‘varying state of all the circumstances affecting trade, whether from the capital or from the labour side of the question’.¹³⁸ A buttress of this perspective was his firm belief in economic liberty embedded in the boards of conciliation and arbitration:¹³⁹

There must be in conciliation or in arbitration the utmost liberty for the play of all those influences which determine the character of a trade dispute, bring out facts in exact form and in full light, and overpower the prejudice and the passion which may have been introduced into the question, by the dispassionate expression and suasive application of that special knowledge which both sides are ready to endorse when free from those agitations of the spirits which interfere with a judgement according to knowledge.

Biagini has defined as ‘liberal corporatism’ this view of industrial society, in which observance of a democratic framework of collective bargaining would maximize the interests of both capital and labour. A salient point was participants’ spontaneous and mutual obligation to the ‘trade’ rather than ‘class’ interests.¹⁴⁰ It was important to preserve their ‘natural order’ of interests. This nonpartisan principle was to be secured by

¹³⁶ Potter, op.cit., pp.406-23

¹³⁷ Ibid., pp.419,428

¹³⁸ G. Potter, ‘Conciliation and Arbitration’, *Contemporary Review*, xv, 1870, pp.543-4

¹³⁹ Ibid., p.563

¹⁴⁰ Biagini, op.cit., p.837

Mundella's strong insistent on voluntarism, which placed no faith in the state for settlements of industrial conflict. Mundella believed that only men who had both special knowledge of their trade and showed a special interest in peaceful settlement could carry out 'open and friendly bargaining', which enabled the employer and employed to discuss their common affairs openly and freely.¹⁴¹ Promulgating the public image of 'law-abiding, peaceful and conciliatory' trade unions, he strongly commended the voluntary framework of collective bargaining as an ideal for the amicable settlement of industrial disputes. On the 1867 conciliation act, framed by Lord St. Leonards, he did not admit any concessions to the use of the enforcement of the law and argued that 'nothing contained in the Act should authorise any council to establish the rate of wages or the price of workmanship which the workman should in future in paid'.¹⁴² His experience told him that compulsive measure had never been necessary:¹⁴³

It cannot fix a rate of wages, or control the varying circumstances which enhanced or reduced wages; and the right place to adjust all such questions as the law cannot and ought not to define such as changes in machinery, working hours, rates of wages, apprenticeships, and the relative shares of the master and workman in the profits of apprenticeship, is the Board of Arbitration.

Mundella was opposed to the arbitration system which was delegated to persons uninformed or uninterested in the particular trade.¹⁴⁴ He did not see legislative solutions as a remedy, because it did not reflect each party's friendly spirit. The primary aim of the Mundella's scheme was to substitute the good will for hostile feeling of both classes.¹⁴⁵

¹⁴¹ *Birmingham Daily Post*, Oct.6, 1868

¹⁴² *The Sheffield & Rotherham Independent*, Sep.12, 1868. *Daily News*, Jan.23, 1868

¹⁴³ *Birmingham Daily Post*, Oct.6, 1868. *The Sheffield & Rotherham Independent*, Nov. 5, 1868

¹⁴⁴ *The British Architect*, vol.73, 1875. *Daily News*, Dec. 19, 1867. *The Sheffield & Rotherham Independent*, Dec. 23, 1867. *The Leeds Mercury*, Feb.6, 1868

¹⁴⁵ *Birmingham Daily Post*, Oct. 6, 1868

From this point of view, the Trade Union Bill was a question of justice – ‘this bill was the same for the master; for trades’ unionists; for the non-unionists; they should all be placed upon an equal footing; let there be no special legislation for trades’ unions’. Citing the statement of the colliers of South Yorkshire, Mundella referred to what he wanted through the Bill: ‘this is right, or it is wrong, but it is never the wrong time to sit down and try to be friendly and adjust your differences’.¹⁴⁶ Giving labour the right to combine enabled both capital and labour to consider what they should do and what they should not do.¹⁴⁷ It was Mundella’s vision of democratic exchange as an antidote to miserable conditions of industrial relations, which gained ‘the emphatic endorsement’ of the Royal Commission.¹⁴⁸ It is now clear that Mundella’s voluntary measure of boards of conciliation and arbitration was not formulated primarily for gaining the institutional privilege as the incorporated institution. It is also illusory to see that it prompted the working classes to accept the system of market capitalism, which resulted in widening the economic gap between the union and non-union workers. Instead of the law of supply and demand, it rather embraced Mill’s view of the market, as shown in the next chapter, which put strong faith in the civic virtues to foster individual independence. Thus, while the legal incorporation of the working classes was assured by giving the sanction for combinations of labour, the mainstay of the Trade Union Act of 1871 was its official acceptance of free collective bargaining between capital and labour, as a way to preserve working class independence. It was on this Mundella’s altruistic and selfless cause, rather than self-centred reason of Positivism, which George Potter and Lord Elcho came to

¹⁴⁶ *The Sheffield & Rotherham Independent*, May 21, 1869

¹⁴⁷ *Nottinghamshire Guardian*, May 28, 1869. *The Sheffield & Rotherham Independent*, May 28, 1869

¹⁴⁸ *The Sheffield & Rotherham Independent*, Mar.18, 1869

agreement and expressed a support for the minority report.

Ch.2. The Rule of Law and Collective Bargaining 1870-1890

2.1. Co-operative Ideology and Collective Bargaining in the Mid-Nineteenth Century

As my first chapter has shown, the pro-union intellectuals of Broad churchmanship, such as Christian Socialists and Positivists, aiming at communal unity grounded upon the vertical relations of moral authority, saw the economic organization of labour as the means to transmit their moral order to the working class people. Taking the collectivist approach to the market principle, their frame of mind was summed up as ‘moralizing of the market’ – reconciliation of moral order with unbridled economic activities. When enacting series of the trade union laws in the 1870s, the advanced liberals, concerned about the individualistic creed of utilitarianism growing under the free trade economy, strived to establish the economic safeguard of labour by giving the legal status to trade unions and securing the free operation of collective bargaining. However, in respect of allowing the organized labour to seek voluntary solution, the institutional framework of collective bargaining was not to be entirely ordained by the guidance of the providential order in the act of incorporation of labour. The room for demonstrating a radical sentiment of economic liberty emerged and the tradition of political economy formed another political platform of the minority report in the 1871 Trade Union Act, granting its scientific acknowledgement to the cause of trade unionism. As a result, the conventional positivist view of orderly society was made a contrast with the market principle of competition, which had been the theoretical format of the economic orthodoxy to achieve individual independence. It was this ideological juxtaposition of the positivist social

philosophy and the tradition of political economy, which formed the solid intellectual stronghold in securing the voluntary framework of collective bargaining and fostered economic subculture of free trade in labour in the early 1870s.

This chapter examines the rise and fall of the ideological context behind the legal institution of collective bargaining. The voluntary framework of collective bargaining was a landing point of the binary assumption of the 1871 Trade Union Act, at which the official economic policy of free trade could accept the working class radicalism. This co-operative doctrine of liberalism imposed the rule of law upon liberal society. When the intellectual discourse of political economy sanctioned trade unionism as a bulwark of religious liberty of individuals, its acceptance of pluralism necessarily implied its deviation from the orthodox principle of market economy. This chapter, by collecting popular and vernacular voices about collective bargaining, first attempts to scrutinize how this rule of law in collective bargaining was recognised in practice. Under equality before the law, the voluntary framework of collective bargaining enabled both capital and labour to determine their rights and duties. Such producers' customary exercise did not drive its function to maximize the interest of individuals and damage labour organisations as some historiography tended to appeal. Inquiries into contemporary ideas would suggest, rather, how much public consciousness was shared under the rule of law in the co-operative doctrine of the mid-Victorian liberal economy, as far as it undergirded religious liberty of individuals in a pluralist form. And how what some historians considers to be the traditional programme of trade unions – putting brakes on overproduction and limiting the number of apprenticeship – was anticipated in the procedure of collective bargaining in the aim of accommodating to the communal interests. The rule of law behind institutions of collective bargaining was, nonetheless, gradually deteriorated, once there

was a growing demand for official embrace of industrial relations. In the intellectual discourse, the liberal ideology of co-operation began to demand capital- or growth-oriented approach to market economy. Tracing voices of contemporary intellectuals, this chapter, second, examines their fear against separation between the moral and economic principle. The expansive and growth-oriented language of co-operative production, replacing the ideological bastion accommodating the market principle to the common good, curtailed the religious concord of liberal co-operation – the voluntary practice of collective bargaining in a pluralist form. This shift in the sense of co-operation, in consequence, turned Liberal intellectuals to develop their contexts of political economy based upon modern idealist principles in response to fractured industrial society.

It has been argued that the intellectual discourse, which evoked the discursive congruity between co-operative production and political economy, lost its validity before the 1890s. Its conflicting relationship was pointed out by Betts, when he revealed theoretical fragility of Mill's questionable convergence of the theory of co-operative production with the tradition of political economy. Mill's ideal of co-operative production could not put the seal upon economic concerns due to the persistence of the concept of wage labour and the growing pressure to increase economic efficiency, which helped to turn later intellectuals to appraise the economic thoughts giving endorsement to rare competency of entrepreneurship. In theory, Mill's civic independence was reckoned to be achieved by self-governance of workers throwing off shackles of wage labour and by free competition, whose effects were maximized by spontaneous motives for economic activity. Its basis lost ideological persuasiveness in terms of its inherent ambiguity. Mill's adherence to the authority of political economy appeared contradictory, because his insistence on collective ownership for the public good fended off what he upheld – 'the competitive

workings of the market' as a safeguard of civic independence. Hence, Betts has argued that the unity between 'official' and 'popular' economic culture was so weak, as long as Mill's moral ideal of co-operative production was successful in hindering the growth of capacity on the part of the concept of 'capital', on the importance of which the positivists continued to insist. Mill's civic virtue of independence was no longer possible to achieve through the unity of industrial relations, because his ideal of working class ownership was the upshot of a 'mid-Victorian ambiguity surrounding the theorization of business leadership'. Therefore, the marriage between classical liberalism and co-operativism, promoted by the Millian circle, was so unstable that the divorce came through, when the requirements of efficiency called for by the market resulted in unveiling the naivety of the Millian principle of co-operative production.¹⁴⁹

Indeed, Mill adopted the market principle as the source of active, but also civic-minded character of individuals. Nonetheless, by this means he seemed not to mean to place individuals under the pressure from the market economy as giving a momentum to economic competition in private realms. To foster educated and self-improving character of the working class, Mill explicitly gave his theoretical support to trade unions, which were a stepping-stone towards his ideal of co-operation. In the process, he did not discard the concept of competition as beneficial for workers and also maintained the importance of support of capital, both of which were deemed to act as a counterpoise to the state authority. When the presence of Mundella's boards of conciliation and arbitration lent credence to the minority report of the Royal Commission, the co-operative ideology manifested in the legal framework of the 1871 Trade Union Act did not favour the way

¹⁴⁹ Betts, *The business enterprise in mid-Victorian social thought* and 'John Stuart Mill, Victorian Liberalism and the Failure of Co-operative Production', quotation is from p.3

of orderly institutionalisation of the organized labour, on which the conventional positivist vision was premised. It did help to underpin the institutional arrangement of voluntary collective bargaining, in which the principle of political economy was justified. At this point, the issue at stake was not whether the co-operative ideology was hostile to the tradition of political economy, but, given that there was a strong affinity between the Victorian liberalism and the prevalent interpretations of Mill's principle of co-operation, it was, rather, important to emphasize that the intellectual context of political economy did not give a priority to economic concerns, but to moral issues. In the case of Millian political economy, as Lipkes has argued, Mill's extra-economic considerations were aimed to offer the ground of religious diversity to the religion of the dissenters. Therefore, by giving acknowledgement of political economy Mill, as a 'supporter of religion', endorsed trade union activities as a bulwark of religious beliefs of individuals against discretionary omnipotence of human beings in disguise of 'expert opinion'.¹⁵⁰

After the decline of Chartism, trade unionism, alongside the co-operative movements, became a main vehicle of working class radicalism. For the latter, Mill's political economy was the liberal safeguard, which contended the importance of competition in place of moral leadership, as the means to achieve individual independence. He considered trade unions to be the means to help disseminate civic virtues and, in contrast to his father James, it was important for him to achieve fair economic distribution prior to the equality of the political rights. In order to combat political corruption owing to demoralising force of aristocracy, the recognition of working class associations were considered to be necessary in terms of moral progress. He thought that the principle of

¹⁵⁰ Lipkes, op.cit., p.155

co-operation based on voluntary associations were effective in case of industrial working classes, as long as the sense of ‘public spirit, generous sentiments... and equality’ was not to be raised under the circumstance of ‘isolation of interests’. The associational efforts were vital in terms of enabling labour to have a bargain with their employers on equal terms and to protect the relative autonomy of working classes. In the process, Mill revised his early understanding of Ricardian postulates. Springing from his strong belief in altruism, his endorsement of the ‘heterodox’ intellectuals, such as William Thornton and Thomas Leslie, resulted in demythifying the theoretical concept of Benthamite utilitarianism. The principle of political economy redefined the legitimacy of economic liberalism, whose premise was deflected from the atomistic doctrine of utility maximizing desire of individuals and accepted the more community-centred or associational vision based upon altruistic and selfless propositions. In this popular version of political economy, the economic rationality was sought by their moral reasons obliging mutual reciprocity, aiming to benefit broader communities.

In defending the rationale of trade unionism, the anti-utilitarian attitudes were expressed in the religious and economic sentiments of radicalism. Their intellectual discourse was led principally by Mill, when endorsing the arguments of Thornton and Leslie. Since the religious beliefs of individuals should not be denied by the experts, the rule of majority, which would be sanctioned by the presumption of utilitarianism, was mistrusted. Thornton argued that in order to protect the natural rights from legitimized obligation, which was to be determined by ‘scientific laws’ of human behaviours, it was important to distinguish religious morality from the coercive function of utility – there were, he continued, ‘private rights independent of utility which no public needs can cancel’. The human faculty such as freedom, fallibility and altruism, all of them bestowed by God,

was more complex than being presupposed and was developed spontaneously not in the least by proliferation of privileges as a consequence of rational calculation.¹⁵¹ Hence, the juncture of the ideological divorce between the positivist social philosophy and the tradition of political economy could happen, when the growth of the market principle accompanied by an intellectual shift in the discourse of political economy justified an increase in economic efficiency and detached itself from the humanitarian nature of Millian political economy. In this transition to a more pragmatic version of science, a historical explanation of the market principle is needed to focus on the utility of the co-operative ideology. It was this reciprocal, religious and economic sentiment, which in the middle of the nineteenth century was induced to limit the operation of unbridle economic activities under free trade.

In fact, when it became obvious that the Churches had failed to respond to the needs of the working classes in the middle of the century, a sense of sin spread out among the denominations of Christianity and turned out to be their redemptive action in opposition to individual outlooks given by the tripartite force of evangelicals, dissenters and Benthamites, which were seen to carry out most of reforms by the mid-nineteenth century. Thornton injecting ‘an object of worship’ into Mill’s religion of humanity, the frame of mind of Millian political economy was more or less shared by a wide range of the religious press from that of the Roman Catholic to the Nonconformist. They accepted trade unions as part of the unity of industrial societies and some took close and friendly attitudes, about which Mayor called ‘a golden age in relations of religion and the unions’ lasting until the 1880s. Such revived Christian sentiments were inclined to advocate the

¹⁵¹ Ibid.,pp.110-59, quotation from p.126

co-operative ideology between capital and labour, informing that the present condition of society was not determined by external laws.¹⁵² The *Dundee Courier & Argus* mentioned that to the ‘common sense and the Christianity’ of the country, ‘a war between capital and labour will be the obstruction’. What was needed to restore the harmony was mutual conciliation based upon ‘the sense of mutual regard and love which forms the very foundation of Christianity’.¹⁵³

Such Christian support for the co-operative movement was first demonstrated in the mid-nineteenth century. The Christian Socialists, such as F.D. Maurice, J.M. Ludlow and Thomas Hughes, after the decline of Chartism attempted to turn the working class attention from political action to the reformist measure of reducing the harm of unlimited competition through the moral guidance of mutual obligation between capital and labour.¹⁵⁴ Inheriting not only the Owenite model of communal regulation of overproduction, but also Louis Blanc’s revolutionary framework of the *Ateliers Nationaux*, they believed that associational efforts of producers would minimize the oppression of competition. The ‘enfranchisement of capital’ was their mainstay. Encouraging the working-class co-operatives, in which workers as shareholders had their direct interests in business, they demanded the right of limited liability of small investors in order to facilitate expansion of working class investment and increase in opportunities to lead them to the ‘mutual sharing of profit and incur the losses and debts of other partners’ in working class co-operatives’.¹⁵⁵ Despite the legal securities they preserved

¹⁵² S. Mayor, *The Churches and The Labour Movement*, London, 1967, pp.11,53,83,96-7, quotation from p.148

¹⁵³ *The Dundee Courier & Argus*, January 15, 1872

¹⁵⁴ J. Saville, ‘The Christian Socialists of 1848’, in Saville (ed.), op.cit., pp.135-48

¹⁵⁵ Hilton, op.cit., p.266, Johnson, op.cit., pp.141-2

for producers' co-operation such as the Joint Stock Companies Winding Up Acts of the late 1840s and the Industrial and Providential Societies Act of 1852, such producers' co-operatives did not flourish. Beatrice Webb criticized co-operative production for not guaranteeing the full control of labour and pointed out, as one of reasons of its failure, the rise of the consumers' movement.¹⁵⁶ In fact, thereafter, the more non-conformist version of consumers' co-operation took its place. The Rochdale society was a famous model of the combination of consumers. Taking the form of co-operative property management, the distributive co-operation aimed at the mutual improvement of moral discretion of members through the market activities. Biagini has argued that the Gladstonian Liberals embraced the co-operative principle of the consumers' movement and they believed that by its expansion the strong sense of social solidarity would be fostered among the poor.¹⁵⁷ Taking account of experiments carried out by co-operators in the light of producers and consumers, the principle of co-operation, which aimed to put a harness upon the atomizing operation of the market economy, became the central ideological premise of labour policies in the Gladstonian Liberal party.

When the optimistic and cosmopolitan model of free trade economy obtained the economic legitimacy after Cobden's rejection of the retributive model of evangelicalism and Peel's repeal of the Corn Laws, Ricardian political economy of the industrialist, competitive and growth-oriented discourse came to the fore. With its utilitarian sentiment of happiness and prosperity, the sanguine language of free trade was used as a crusade against the ancient regime, overturning the economic paradigm of paternalist and

¹⁵⁶ T. Alborn, "'A Useful Lesson of Contentment': Pedagogies of Failure in Mid-Victorian Market Culture", in Trentmann and Dauntton (eds.), *Worlds of Political Economy*, pp.95-111

¹⁵⁷ Biagini, *Liberty, Retrenchment and Reform*, pp.100, 141-4

protectionist policies of mercantilism.¹⁵⁸ The widespread popular support was gained by making an appeal to the ‘people’s bread’. When propitiation of the interests of consuming people was successful in fostering unity and morality of consumers, the more secular version of free trade was recognized as the safeguards of the national community and believed to serve the common interest of both manufacturers and working classes. Thus, politics of free trade economy encouraged the establishment of consumers’ identity in British political culture. In this sense, the working class demands for a fair return from their labour as a prerequisite for their moral duty were manifested in the light of their independence not only as their interests of producers, but also of consumers. However, when trade unionists upheld the traditional trade union motto of a ‘fair day’s wage for a fair day’s work’ as the moral right of labour and strived to legitimate the economic organization of labour to increase their bargaining power, such trade union programme was overlapped with a current of radicalism.¹⁵⁹ The growing sentiment of industrial democracy was tied with a more egalitarian vision of the republican tradition.¹⁶⁰ Free trade in labour – producers’ right to exchange their ‘labour’ as sacred and inviolable property in a free and fair market – was to be secured, only when the democratic assumption of co-operation was shared by capital and labour in the procedure of the voluntary collective bargaining. While it permitted the relative autonomy of the working classes, the libertarian rights of producers were restricted to the extent that the ‘democratic spirit’ was successful in retarding the desire of utility maximizing individuals for the sake of defending their natural liberty, on which the moral system of Millian

¹⁵⁸ Howe, op.cit.

¹⁵⁹ R. Clements, op.cit., p.97

¹⁶⁰ E. Biagini, ‘Liberalism and direct democracy: John Stuart Mill and the model of ancient Athens’, in E. Biagini (ed.) *Citizenship and Community*, Cambridge, 1996 pp.21-44

political economy was based. Different from marginalist theorists, who later elaborated the theory of consumer surplus, Mill, therefore, stressed that the consumption of ‘unproductive labour’ did not benefit the working classes in general.¹⁶¹

In this sense, developed as the economic subculture of free trade economy, the co-operative ideology of the mid-nineteenth century required the commitment to the rule of law in terms of the condition that operation of the voluntary framework of collective bargaining aimed at securing a strict equilibrium between production and consumption. The *esprit de corps* of this sense of moral economy was expressed by George Potter, a staunch contemporary proponent of the lawfulness of local trade unions. As the crux of collective bargaining, he expounded the importance of seeking identical interests of the tripartite agents of economy – capital, labour and consumers. Potter argued that in order to achieve their equilibrium it was necessary to instil among them the morale ‘ruled, and safely guided by the spirit of moderation and mutual forbearance in their relation one towards the other’. On the basis of this discussion, there was a firm belief that it was important to take account of the interests of consumers as an impersonal mediator between ‘the claims of labour’ and ‘frank and general concession on the part of capital’, because the consumers ‘should take and express their views as a class of what may appear to them a war between the two sections of producers, and a war, too, which they may conceive, and even sometimes really feel, to be prejudicial to their interests of convenience’. For Potter, ‘a fair, reasonable and intelligent’ discretion of the consumers was the third economic force, which would constrain avarice of producers and was expected to be a guiding hand of trade unions to achieve their universal recognition,

¹⁶¹ Lipkes, *Op.cit.*, p.150

helping to discard their violent images.¹⁶²

Furthermore, John H. Rutherford's comment in the Leicester town meeting for peaceful relations between capital and labour expressed comprehensively this co-operative ideology between capital, labour and consumers as the Christian spirit of justice of favouring mutual conciliation for a system of guaranteeing peaceful solution. Rutherford was an evangelical preacher and showed a grave concern about the dominant spirit of trade – utilitarianism, which was labelled as the 'doctrine of devils'. With a firm belief that only by the Millian principle of co-operation, could industrial prosperity be ensured, he insisted that in uniting capital and labour there was 'application of the great principle of brotherhood to labour'. Co-operation meant having confidence each other, organizing together and becoming their own masters by fulfilling their duties: 'He did not care whether a man was a peer or parson, a rich man or pauper...it was not to himself and family he owed it, but to his country and the world, of which he was a member, that he did not neglect his daily task...'. The term, 'duty', was possible to be paraphrased into the term 'labour', as he also contended that 'labour was not an indignity, nor was it a curse, but that it was a blessing and an honour'. From this point of view, trade unions played an important role to reach the *somum bonum* of co-operation, as they had merits of uniting them removing injustice and social misery and increasing moral influence in place of industrial warfare. The organized labour was a means to ease the accomplishment of independence and emancipate labour by securing a 'fair day's wage for a fair day's work', which was achievable only by reckoning the consumers' interests. The latter needed to be allocated a 'fair share of the profits over and above what was paid for capital

¹⁶² *The Leeds Mercury*, January 18, 1873

and labour'. The scheme of conciliation and arbitration was indispensable for avoiding industrial disputes. In the world of commerce, where 'capital could not do without labour, and labour could not do without capital', it was 'one of the most Christian acts' to show the spirit of co-operation.¹⁶³

The religious discipline of the rule of law was, thus, entangled deeply with the Victorian value of the co-operative ideology. Mundella himself believed that his 'reasonable, humane and Christian system' was to promote mutual respect between capital and labour.¹⁶⁴ Samuel Morley, a Nonconformist employer, argued that a successful settlement of industrial dispute was obtained, when both capital and labour shared the high moral grounds.¹⁶⁵

The highest position that employers could wish for their man was that they should recognise their duty to God as well as to man; for this involved their duties to themselves, to their families, and to society.

Its characteristic of tripartite liaison between capital, labour and consumers also became the basis of the foundational idea of the voluntary framework of collective bargaining. Thompson's research of the intellectual discourse and scholarly usage of the public opinion has shown that the interests of consumers were well reflected in the concept of the public opinion as an imponderable economic force. Thompson has maintained that the public opinion was virtually steeped in the interests of consuming people. After the repeal of the Corn Laws, in regard with economic and political performance, the public opinion fulfilled an important role not only in regulating industrial disputes and

¹⁶³ *Leicester Chronicle and the Leicestershire Mercury*, June 06, 1874

¹⁶⁴ *The Sheffield & Rotherham Independent*, March 10, 1871

¹⁶⁵ *Birmingham Daily Post*, January 11, 1872

preserving industrial peace, but also in underpinning the premise of political economy of free trade. From this point of view, the voluntary procedure of collective bargaining opened the room for the prospects of consumers to materialize their interests in industrial warfare, when the latter taking a form of and being represented by the public opinion.¹⁶⁶ In fact, *The Morning Post* reckoned this intangible existence of the public as one of economic factions, whose interests were highly susceptible to disruption of industrial relations:¹⁶⁷

There is, however, a third party, who always suffers from these contests, and that is the consumer – that curious indescribable entity called the public. Capital cannot lie idle, labour cannot be suspended in any trade, or in any branch of trade, without the public suffering from the suspension of activity in production, and the consequent increase of prices. In the long run it may be safely asserted that the consumer suffers as much or more from strikes than either the capitalist or the workman. The loss in their case is spread over so large a surface that it is impossible to ascertain its amount per individual, but it is none the less real for that; and this is a solid and substantial reason why the public should discourage strikes, and should support any movement which, by establishing sound relations between capital and labour, shall render them unnecessary and impossible.

Therefore, instead of resorting to strikes and lock-outs, it was considered to be beneficial for the public to seek the voluntary solutions to stabilise industrial relations. These claims on the significance of consumerist culture were also consistent with the foundational disposition of the voluntary boards of conciliation and arbitration, as, Lujo Brentano, a contemporary historical economist, stated concisely that the sanction eluding separation of strike and benefit funds resulted ‘in the interest of the public as well as in that of the trade union’.¹⁶⁸ From this viewpoint, the legal recognition of trade unions was thought to

¹⁶⁶ Thompson, op.cit., ch.1

¹⁶⁷ *The Morning Post*, March 21, 1873

¹⁶⁸ L. Brentano, *The Relation of Labour to the Law of To-day*, New York, p.124 quoted from

be beneficial for the public. On the contrary, collective bargaining was also seen as a means ‘to gain their point with the public’.¹⁶⁹ When reviewing history of the combination acts, *The Sheffield & Rotherham Independent* mentioned that at present ‘both parties are careful to consider how the issue will be regarded by the public’ and that ‘each side is anxious to have a good case, conscious that it is of the first importance to secure the pressure of public opinion for their own side’.¹⁷⁰ In short, the operation of free collective bargaining was consequently constrained by the moral force of the public determining ‘the fair value of labour’ through open discussions. Morley, an industrialist M.P., insisted that harmonious distribution of wealth could not be achieved if legislatively imperative, but once ‘creating a public opinion amongst the workmen, as also amongst the employers’.¹⁷¹

Before giving a narrow focus upon the scheme of collective bargaining as the battleground of producers’ interests between capital and labour, which is inclined to reach a conclusion that emphasized its procedure as the cause of economic inequality, it is important to take into account the disposition of collective bargaining, which was affected by the indeterministic character of the public. In the context of economic liberalism, this discursive shift of political economy turned out to be the less deterministic economic doctrine, and contributed to wide-ranging interests of communities. Therefore, it is vital to grasp the function of collective bargaining as the machinery adjusting the interests of both producers and consumers, since historiography based on the previous and deterministic assumption of the market principle as an impersonal force tended to

Thompson, op.cit., p.55

¹⁶⁹ *Birmingham Daily Post*, October 4, 1870

¹⁷⁰ *The Sheffield & Rotherham Independent. Supplement*, January 13, 1874

¹⁷¹ *The Bristol Mercury*, September 4, 1875

overlook the economic culture of free trade – the economic values of consuming people. However, as Thompson has examined linguistically, it is likely misleading to make a clear-cut distinction of the interests between producers and consumers. The concept of the public as the secular economic force always had complex connotations. Its composition was varied, as, in practice, it was overlapping, interrelated with and as important as that of classes on a constant basis. For instance, it may be beneficial for the consumers, if they could buy products as cheap as possible, but less, if this leads to extraordinarily lower wages of labour, as many of them in most cases constitute the working classes as well, and the similar effect can be seen in the case if profiteering by the producers extorts exorbitant payment from the consumers. Therefore, the extent to which the moral force of the public made a pressure to take a balance of the economic forces through the procedure of collective bargaining remained enigmatic.

Although Betts attributes the degradation of the democratic values to Mill's theoretical deficiency in evaluating the potential of entrepreneurship, whose original concepts were rooted in the tradition of Comtian intellectualism and Carlylian industrialism, the ideological breakdown of equality between capital and labour was not rooted in the theoretical illegitimacy of Mill's co-operative production. Its main vehicle was, rather, the growth of the market principle, which was accompanied by the greater division of labour, as Adam Smith mentioned that the division of labour was to be limited by a scale of the market. What did lubricate the discourse of the market principle, which promoted the division of labour greater to the extent that almost nullified the co-operative ideology of the mid-nineteenth century and replaced the values of industrial democracy with the ideological supremacy of economic efficiency? The progenitor of Mill's decentred public virtue, Alexis Tocqueville, arguing the growth of liberty and equality in the U.S., foresaw

the industrial relations fallen back to the despotic one, when the greater equality between capital and labour ended up in confronting a ‘degrading utilitarian reality’ under the growth of national economy, as its increasing needs to serve the national economy accelerated the greater division of labour.¹⁷² The rule of law in collective bargaining would be collapsed, when the co-operative ideology of the mid-nineteenth century experienced separation of producers – capital and labour – from consumers. The voluntary framework of collective bargaining guaranteed the institutional privilege of trade unions to seek the natural order of interests. However, their necessity to reconcile the market may have induced its principle to lean to more productionist policies.

The tradition of political economy, which had strived to seek economic liberty of individuals, revealed the truth that the metaphysical principle of the market no longer guaranteed economic liberty of labour, particularly when it was argued that such theories of the market helped to preserve the unequal and exclusive conditions of labour. Under the optimistic and growth-oriented model of free trade, a series of legislation was passed, which formed the legal ground of entrepreneurship: the repeal of the Bubble Act in 1820, the Joint Stock Companies Acts of 1844 and 1856, the Limited Liability Act of 1855 and the Companies Act of 1862. The Evangelicals showed a deep concern about reckless speculation after the general limited liability as an omen of the end of their providential framework.¹⁷³ The Christian Socialists, on the other hand, considered that the right of limited liability enabled individuals to flow, distribute and employ the source of wealth.¹⁷⁴ However, despite the efforts of the latter, the limited liability joint-stock company was

¹⁷² A. Tocqueville, *Democracy in America*, New York, 2004 (first pub. vol.1 in 1835 and vol.2 in 1840), translated by Arthur Goldhammer, pp.650,674,677, 810-1

¹⁷³ Hilton, *Op.cit.*, pp.256-61. Searle, *op.cit.*, pp.77-97

¹⁷⁴ Johnson, *Op.cit.*, p.142

not deemed to become a popular form of economic activity before the 1890s.¹⁷⁵ Mill's principle of co-operation was an institutional programme to protect liberty and equality of individuals from the collective force of the majority. By the 'recognition of certain immunities' individual independence and diversity of opinions were to be ensured. In the light of free trade, individual liberty was taken into account, when issues on trade were left to the people rather than by incorporation into the whole system, because the combinations of joint stock companies and limited liability were inclined to increase the merit of incorporation as much as that of economies of scale.¹⁷⁶ The collapse of industrial co-operation could be seen, when their democratic solution could no longer gain a consensus of the public, and rekindled the discussion about alternative methodology of incorporation of the economic organization of labour.

2.2. Voluntary Framework of Collective Bargaining

The co-operative ideology between capital and labour was safeguarded by the voluntary framework of collective bargaining, which was projected to preclude interference of external force in the natural order of industrial society. This sentiment of people's commitment to the rule of law was entrenched by the neutral concepts of laws. The trade union laws of the 1870s guaranteed spontaneous reaction by capital and labour to industrial issues. Introducing the Trade Union Bill, H.A. Bruce, the home secretary, believed that neutrality of the law was 'the principle of putting employers and workmen on a footing of perfect equality' and would 'promote a good understanding and voluntary

¹⁷⁵ P. Johnson, 'Market Disciplines', in P. Mandler (ed.), *Liberty and Authority in Victorian Britain*, Cambridge, 2006, pp.219-220

¹⁷⁶ Mill, op.cit., p.60

manners between the parties without having recourse to legal proceedings'.¹⁷⁷ The legal edifice of the 1871 act classified the legal status of trade unions into the scope of the Friendly Societies Acts. By this means, trade union funds were immunized from prosecution for corporate responsibility, as they were not considered to be corporate bodies liable for financial burdens. The other civilizing codes enacted in 1875 – the Conspiracy and Protection of Property Act and the Employers and Workmen Act – removed substantially the class-biased regulations, the former sanctioning trade unions' capacity of 'peaceful picketing' by giving clarification of definitions to formerly misleading legislative terms like 'coercion' and 'molestation' and the latter substituting liabilities of fine for imprisonment in the case of breach of contract. As to the reduction of legal inequity, George Howell, the secretary of the Trades Union Congress, argued that 'the newer phase of civil actions for damage is one to be met, grappled with, and dealt with in the spirit of broad justice as between man and man'.¹⁷⁸ These changes in jurisprudence became a legal bulwark of the voluntarist framework of collective bargaining.

The legislative reforms of the 1870s were promoted mainly by the political alliance of the advanced Liberals and the Trades Union Congress. After the Trades Union Act of 1871, the latter organized their protest against the Criminal Law Amendment Act (CLAA), which was its pernicious offshoot and was stained with legal inequity in terms of leaving arbitrary discretion to magistrates. Hence, the penal sanctions against London gas stokers in 1872 and Chipping Norton Labourers in 1873 evoked the strong radical demand for equality before the law, when these cases overshadowed the acknowledged advantages

¹⁷⁷ *Birmingham Daily Post*, Feb. 16, 1871

¹⁷⁸ Howell, op.cit., p.388

of trade unions in the 1871 act. The TUC aimed at the repeal of the CLAA and the amendment of the Master and Servant Act by launching a large scale demonstrations and lobbying activities. The friends of labour, such as W.V. Harcourt, Henry James and Robert Lowe who this time targeted the legal consistency of free trade economy showed unwavering support for a general reform of the law of conspiracy even after the Liberal party went out of power in 1874.¹⁷⁹ Based on the principle of legal justice, the labour law reforms in the 1870s had crucial meaning for ‘the personal freedom of the working classes’ no less than for the right of trade unions to strike.¹⁸⁰

The rights of labour to bargain on equal terms with the employers was secured by the government’s withdrawal from interference in industrial disputes. This neutral state was constructed by the bulwark of the legal structure, defying the conventional idea that combinations of labour were in restraint of trade and removing the taint of serfdom by charging breach of contract with civil liability. It guaranteed the equal treatment between capital and labour before the law by endowing the economic organization of labour with the legitimacy to take collective action for securing their natural interests. Trade unions representing the interests of labour were regarded as counterpoise to the pressure from a clique of employers. Behind this premise there was the reason that labour was likely to be in isolated and weak position compared to capital which was combined and strong. Potter argued that there was no means to cope with the ascendancy of capital apart from forming combinations of labour. Iniquitous laws were, therefore, needed to be amended,

¹⁷⁹ H.W. McCready, ‘The British Election of 1874: Frederic Harrison and the Liberal-Labour Dilemma’, *Canadian Journal of Economics*, Vol.20, 1954 and ‘British Labour’s Lobby, 1867-75’

¹⁸⁰ J. Spain, ‘The Labour Law Reforms of 1875’, in Biagini & Reid (eds.), op.cit., Biagini, op.cit., p.153

because ‘the law should be made for the weak against the strong, the poor against the rich, and not for those who could almost suppress every institution in the country’.¹⁸¹ Only by combinations of labour independent producers would be able to engage in work with ‘a full justification of the workman’s claim to make his own bargain’.¹⁸² Introducing the Arbitration Bill in 1874, Mundella argued that trade unions were imperative for fair and effectual decision making of collective bargaining, because the ‘natural and legitimate means of equalising the advantages which capital possesses over labour’ and that ‘they give power to the working man to enable him to deal on terms of greater equality with employer’.¹⁸³ Under the neutral labour laws, trade unions were expected to fulfil the mediating role of economic agents, as Henry Crompton, a Positivist Liberal barrister, expounded its definition as follows: they were able to regulate ‘the relations between workmen and masters, or between workmen and workmen, or between masters and masters’ by ‘imposing restrictive conditions in the conduct of any trade and business’.¹⁸⁴

The neutral legal framework secured the free operation of collective bargaining between employers and representatives of trade unions, which was tantamount to their direct higgling of the market price of the value of labour. Its implementation warranted a more open and detailed procedure and enabled trade unionists to make fairer regulations and adjustments of industrial issues.¹⁸⁵ By this means, trade unionists improved communication with employers and made an approach to what Applegarth desired – ‘reliable and valuable data’ for ‘the amicable adjustment of wages or other matters to

¹⁸¹ *Cheshire Observer*, Jan. 25, 1873

¹⁸² Potter, ‘The Trade Societies of England’, pp.419,428

¹⁸³ *The Sheffield & Rotherham Independent*, Oct. 22, 1874

¹⁸⁴ *Birmingham Daily Post*, Jan. 14, 1873

¹⁸⁵ *Birmingham Daily Post*, Jan. 13, 1872

dispute'.¹⁸⁶ James Peattie, a Scottish moulder, gave a further account that the members of trade unions could now grasp the 'rise and fall of the markets, the state of trade and every other thing in connection with capital and labour'.¹⁸⁷ A fair equilibrium of the labour market was, thus, to be achieved no longer by the metaphysical doctrine of supply and demand, but by the institutional procedure, in which trade unions could speak publicly and gain publicity for their activities.¹⁸⁸ In this voluntary framework of collective bargaining the issue at stake between capital and labour was what Crompton strived to ensure – 'freedom of contract and equity of service as between capital and labour'.¹⁸⁹ Seeking the fair contractual relationship between capital and labour became a prevalent form of industrial relations under the neutral governance.

It is worth asking whether the development of the contractual relationship was a harbinger of the individualist society, in which self-determining individuals aimed to maximize their private properties.¹⁹⁰ Many historians have seen this newly established practice of industrial relations as the process for accommodation of labour to the law and order of the middle-class society, whose strong tenor of individualism would finally atomize wage earners and raised their money-mongering attitudes. The contractual obligations reinforced the domination of capital in terms of separation from the archaic measures of traditional or paternalist control of industrial societies.¹⁹¹ Case studies on the boards of conciliation and arbitration in coal mining industries resulted in strengthening this view of the growth of the capitalist order, when they arrived at conclusions that their adoption

¹⁸⁶ *The Sheffield & Rotherham Independent*, October 21, Nov. 18, 1871

¹⁸⁷ *The Dundee Courier & Argus and Northern Warder*, Dec. 31, 1875

¹⁸⁸ *Birmingham Daily Post*, Jan. 16, 1874

¹⁸⁹ *Birmingham Daily Post*, Jan. 14, 1873

¹⁹⁰ W. Fraser, *Trade Unions and Society, The Struggle for Acceptance 1850-80*, London, 1974

¹⁹¹ Fox, *op.cit.*, Joyce, *op.cit.*

of the voluntary system ended up in collapse of trade unionism or its resurgence with militant function.¹⁹² On the basis of these arguments there were primary focuses upon class divisions in the market economy, in which the conventional network of society was substituted by the cash-basis contracts between capital and labour. However, in interrogating utility of collective bargaining, it is a theoretical pitfall to specify a wide chasm opened between classes as the progress of atomization of individuals – the growth of labour alienation in a Marxist sense – or the development of contractual relationship as the breakpoint of moral economy. The point at issue is how the voluntary framework of collective bargaining was understood by contemporaries: whether the new framework of industrial societies was seen as the means to take advantage of selfless labour. If so, whether the development of contractual relationship obliterated trade customs and led to the conditions of class struggle.

Rather than rejoicing at making a step towards a robust competition for the maximum benefits, industrialist Liberals considered that the voluntary framework was a suitable condition for nurturing moral obligation between capital and labour. Thomas Brassey, who was also a well-known political economist at that time, argued that it was not the role of the state to elevate the moral condition of the people, but was ‘the self-help and self-sacrifice of the whole nations’. The moral values of individuals were considered to be fostered by individual institutions, which were set out by the ‘wisdom of the past age’. From this point of view, the voluntary scheme of collective bargaining was useful as long as it ‘naturally facilitate[s] peaceful negotiation where a desire for peace exists on both

¹⁹² Allen, op.cit., J.H. Porter, ‘Wage Bargaining under Conciliation Agreements, 1860-1914’, *Economic History Review*, vol.23, 1970

sides'.¹⁹³ In consequence, 'many prejudices may be removed, and much personal regard may be stimulated by an honest interchange of ideas, face to face, in a spirit of conciliation, and with a mutual and sincere desire to reach the truth, and to maintain justice'.¹⁹⁴ Mundella also believed that what was beyond the sphere of legislation was the development their mutual understandings. Only by the voluntary procedure people's 'moral force' was exerted, their 'best spirits' provoked and 'best influences' pervaded.¹⁹⁵ While the costly and desperate measures like strikes and lock-outs were avoided, the outcomes of collective bargaining depended upon 'the good judgment of both parties, and upon the kindly feeling and desire of both parties to do right'.¹⁹⁶ To seek the peaceful settlements through free collective bargaining indicated an ideological meaning to locate representatives of capital and labour on the side of reason, which was believed to ensure progress and humanity of civil society.

Furthermore, there was strong consensus amongst the Liberals that such mutual enhancement of morality would serve the public interests. Thomas Hughes appraised an effect of collective bargaining as follows: 'If this arbitration system were extended throughout the country, the good it would do would be incalculable', as 'it would end all the fighting and struggling which periodically take place in all the large centres of industry, and would, in the end, promote the best interests of all classes'.¹⁹⁷ Similar prospects were expressed by industrial M.P.s such as Charles Seely and Samuel Morley. The former argued that the experience of collective bargaining resulted in increasing his

¹⁹³ T. Brassey, *On Work and Wages*, London, 1873, pp.272, 281-2

¹⁹⁴ *The Sheffield & Rotherham Independent*, Sep. 21, 1877

¹⁹⁵ *The Sheffield & Rotherham Independent*, Mar. 08 and 10, 1871

¹⁹⁶ *The Sheffield & Rotherham Independent*, Oct. 22, 1874

¹⁹⁷ *The Preston Guardian etc*, Feb. 11, 1871

respect for labour, when he felt the 'plain common sense' displayed by trade union representatives, and that the 'association of the interests between capital and labour', therefore, enabled them to work together for the 'general good'.¹⁹⁸ The latter gave his consent that the 'higher nature of the man' would deepen their mutual understanding and help to bring national prosperity.¹⁹⁹ The conciliatory spirit of employers, with educative intention of moral enhancement, was to be dedicated not only to creation of a general feeling of mutual confidence between capital and labour, but to an increase in the sense of common good.

On the other hand, current studies of trade unionism have suggested that, encouraging the advancement of social responsibility, mutuality and equality, the procedure of collective bargaining was not to foster the monopolistic characteristic of trade unionists, who were lampooned as labour aristocracy, but the fellowship between capital and labour. It was trade unions' programme to protect traditional values and practices by halting the progress of overproduction, which was feared to bring about the volatile conditions of economy. They limited the number of apprenticeship and urged employers to correspond to demands of consumers.²⁰⁰ Daniel Guile, a shoemaker, confirmed this view. He argued that trade unions disregarded the rule of supply and demand, when they accumulated funds in a booming period and bought up the surplus labour during depression. It yielded a better result of equilibrium of the labour market than allowing an increase in the rate of unemployment and poverty.²⁰¹ Therefore, as George Odger, a shoemaker, argued, the

¹⁹⁸ *The Sheffield & Rotherham Independent*, Jan. 09, 1872

¹⁹⁹ *The Morning Post*, Jan. 11, 1872, *Daily News*, Jan. 11, 1872

²⁰⁰ Reid, 'Old Unionism Reconsidered'

²⁰¹ *Birmingham Daily Post*, Jan. 12, 1872. In terms of trade unions' rejection of the principle of supply and demand, see Clements, op.cit.,.

boards of conciliation and arbitration were ‘a place where men thought, discussed, and reasoned out question’.²⁰² From this viewpoint, trade unions were not only to play a role of ‘the saviours of the wages of the working class’, but also to achieve the ‘prosperity of society’, as successful in securing ‘a fair right to claim all just and honourable considerations’ of capital and labour.²⁰³

George Howell, the secretary of the Parliamentary Committee of the TUC, insisted that there were the ‘rights and duties’ existing between capital and labour. In *Conflicts of Capital and Labour*, he argued that the growth of the contractual relationship did not mean that labour became subordinate to capital. It was not a contract of exchanging commodities, but of ‘partnership or joint activity, it is an association involving every side of life’. Labour was ‘the creator of commodities’ and ‘with the wants of citizen and a family at home’ they needed to make a bargain with their buyers, who could provide them with the ‘means of subsistence during their manufacture, and also the market wherein they may be bought, sold or exchanged’. It was obvious that ‘nothing is more fallacious than to call labour questions simply a matter of wages and money’. Rather, the contracts, made between capital and labour, were a sign of a partnership ‘involving a real equality of duties and powers’.²⁰⁴ Building a safeguard of individual workers, trade unions had the public duty of fulfilling obligations to their members as well as to their communities. Howell believed that the condition of the people could be improved by attaining their independence – ‘self-reliance and self-help’ – which was developed by associational effort for the common good.²⁰⁵ To achieve this aim, the unity between capital and labour

²⁰² *Birmingham Daily Post*, Jan. 13, 1872

²⁰³ *Leicester Chronicle and the Leicestershire Mercury*, Sep. 2, 1871

²⁰⁴ Howell, *The Conflicts of Capital and Labour*, pp.188-90

²⁰⁵ *Ibid.*, pp.x,210-11, 490-1

was important, because the ‘dignity of their work and lives rests in their knowing and performing their mutual duties and their common tasks’.²⁰⁶

In contrast with the hypotheses that negotiation of the terms of contract through free collective bargaining between capital and labour was the cause of individualist society, as it gave birth to what Fox considered, ‘wary, mutually suspicious, arms-length, zero-sum relationship’, the principle of collective bargaining was seen by both industrialists and trade unionists to be the rational means to inject religious, or humanitarian, programme into the contractual relationship. When both large employers and representatives of trade unions praised the boards of conciliation and arbitration in the admission that ‘each side has its rights, and that each side has its duties towards the other’, they ‘at least share the congratulatory mood’.²⁰⁷ Odger believed that the boards would develop the ‘virtues of character’ and would ‘do more to educate the people than any other means’.²⁰⁸ Many contemporaries saw the scheme of conciliation and arbitration as a milestone to co-operative economy, as Mundella admitted that trade unions were the ‘natural and legitimate’ means to contribute to the ‘promotion of co-operation and industrial partnerships and the success of boards of arbitration’.²⁰⁹ In the Trades Union Congress in 1875 presenters like G. Tomlinson, T. Halliday and J. Samuelson strongly advocated the boards of conciliation and arbitration as a chief measure to ‘seek or accept’ co-operation between capital and labour.²¹⁰ Alexander MacDonald of the Glasgow Trades Council regarded co-operation between capital and labour as the ‘*summum bonum*

²⁰⁶ Ibid., pp.190-1

²⁰⁷ *Daily News*, Jan. 11, 1872

²⁰⁸ *Reynolds's Newspaper*, Jan. 14, 1872

²⁰⁹ *The Sheffield & Rotherham Independent*, Oct. 22, 1874

²¹⁰ *Birmingham Daily Post*, Jan. 25, 1875, *Liverpool Mercury etc*, Jan. 25, 1875

to be gained from Unionism'.²¹¹

However, the intense manifestation of the co-operative ideologies did not necessarily mean that the practical experiments of producers' and consumers' co-operation were their ideal mode of production. Howell saw them as helpful for developing experiential knowledge of trading and manufacturing among the working classes, but denounced as they did not show much progress in respect of 'labour' problems.²¹² The rights of voluntary collective bargaining were rather exerted for preserving the autonomous disposition of labour, as Reid has argued that traditionally the working classes had contrived to establish their own communities through struggles for boundaries and conditions of work and their preference of the 'liberal and self-regulating society' was embedded in the consensual contracts.²¹³ Thomas Burt, the secretary of the Northumberland Miners' Association, believed that labour was the 'chief essential in the production of wealth' and its 'full emancipation' was possible by co-operation between capital and labour – 'working together for a great and a common object'. He advocated the 'friendly, amicable, and harmonious relations' between employer and employed, because it was only by an appeal to reason and common sense that the latter could have a 'fair share in the wealth he did so much to produce', which he called 'simple equity'.²¹⁴ Rupert Kettle, a judge of the Wolverhampton County Court, upheld the view that the principle of co-operation was achieved only by trade unions and that two parties with their respective claims would reach the decision of what was 'just and equitable at the

²¹¹ *The York Herald*, Aug. 17, 1874

²¹² Howell, *op.cit.*, pp.454-64

²¹³ Reid, *Social classes and social relations*, pp.30-53

²¹⁴ *Birmingham Daily Post*, Mar. 23, 1874

time', by which labour would 'get the best price for his work'.²¹⁵ The voluntary framework of collective bargaining was, therefore, the co-operative scheme between capital and labour, which was established not for the pursuit of sectional or self-interests, but for imbuing the sense of altruism and reciprocity between capital and labour. Far from applauding the deterministic economic law, its operation was based upon their 'rights and duty'. In implementing the boards of conciliation and arbitration, trade unions were seen as a practical means to secure the benefit of a wide range of labour.²¹⁶ With strong encouragement of non-unionists to join unions Potter argued that the combinations of labour was helpful for securing a 'fair share of their profits,' which had an equivalent meaning to the 'welfare of all classes of the community'.²¹⁷ It was considered to be achieved by the mutual improvement between capital and labour. Quoting Mundella's statement, Potter showed a strong sympathy with his view of the interactive influence of the boards of conciliation and arbitration:²¹⁸

“In fact”, says Mr. Mundella, “the less the workmen is kept in the dark, the better it is both for himself and his master. On the other hand, the insight which the master obtains into the circumstances and views of the workmen, tends greatly to develop his sympathies and to improve the workmen's condition”

2.3. Public Opinion and Growth of Collective Bargaining

The institutionalisation of the voluntary collective bargaining was the liberal programme aiming to build up trust in British society by improving mutual understandings between

²¹⁵ *Western Mail*, Jan. 31, 1871. *The Leeds Mercury*, Sep. 24, 1870. *Glasgow Herald*, Nov. 30, 1874

²¹⁶ *Northern Echo*, Oct. 3, 1874, *The York Herald*, Aug. 17, 1874

²¹⁷ *Liverpool Mercury*, Jan. 20, 1875

²¹⁸ Potter, 'Conciliation and Arbitration', p.552

capital and labour. Establishing the contractual relationship both parties were to grant their common assent to reciprocal 'rights and duties'. This voluntary means to settle industrial disputes was invoked by strong manifestation of the co-operative ideology as a moral force inculcating the sense of the reciprocal and humane system of collective bargaining, rather than encouraging incorporation of trade unions into the modern market economy, whose unbridled operation was seen to end up in making the wider economic gap between the trade unionists and non-union individuals. The visions suggested by both the industrialists and trade unionists emphasized its outcomes as beneficial for broader interests of communities. The former believed that it can be achieved by exerting their moral force, whereas the latter by increasing their autonomy by halting the process to overproduction. True, they shared the concept of co-operation. It was not so close to Mill's ideal of co-operation, in which shackles of 'wage labour' were to be overthrown, as to the more religious sense of co-operation, which was founded upon the mutual obligations assigned to the demarcation between capital and labour. However, this entrenched institutional safeguard of free labour was always exposed to the propositional concern expressed in the TUC – whether 'it is futile to expect that co-operation will every permanently supersede competition as a fundamental element in the machinery of society'.²¹⁹ As Mill considered, were trade unionists successful in managing economic competition for achieving active character of individuals, or his ideological concept of industrial democracy was invalidated by the pressing reality of trade and industry?

In the discourse of political economy competition in the market economy was curbed by the economic legitimacy of public opinion. Thompson has argued that the deistic rule of

²¹⁹ *The Sheffield & Rotherham Independent*, May 6, 1871

supply and demand was hijacked by the inductive and historicist approach promoted by the historical economists and positivists, who granted trade unions the scientific basis. As the dissolution of the wage fund theory was an instance of this downfall of economic absolutism, their denial of self-interest and the tenet of perfect competition was successful in replacing theoretical accounts of conventional political economy with more ‘non-technical’ analyses of economy. This meant that the interregnum of the orthodoxy of the economic thought was filled by the deity of the positivist social philosophy: the positive conceptions of the public. The public opinion was considered to be secularised providence and to guarantee ‘the social justice of a reformed market.’²²⁰ Despite the later progress of the theory of marginalism and professional authority attached to it, its speculative propositions of incomplete competition and the custom of ‘bilateral monopoly’ eventually underwrote the unshakable centrality of the ultimate indeterminacy of the market. From this point of view, the invocation of public opinion as the economic momentum to regulate competition was, as Thompson’s examination of Alfred Marshall indicates, necessarily premised on the operation of trade unions rather than on the authority of statutory legislation. Marshall argued that, if there were associational efforts of both capital and labour, ‘the solution of the problem of wages becomes indeterminate’, but decided only by ‘higgling and bargaining’.²²¹

In the moral economy of free trade the public opinion was considered by political economists to uphold the ‘interests of consumers’. It played a role of displaying influential and worthwhile ideas of moral efficacy and became a linkage between economy and social forces. Considerable faith in the public opinion by Liberals resulted

²²⁰ Thompson, *op.cit.*, p.200

²²¹ *Ibid.*, Ch.4

not only in advocating the voluntary framework of collective bargaining, but in encouraging the separation of economics from politics. As a regulator of industrial disputes, it exercised influence upon the process of collective bargaining.²²² The theoretical premise of the voluntary collective bargaining – equilibrium of tripartite force of capital, labour and consumers – was complemented by the public opinion. This imponderable economic force made it possible to expand the function of collective bargaining into federative action. When the National Federation of Associated Employers (NFAE) was established in 1873 as counteraction by employers against an increasing influence of trade unions, many predicted the appearance of antagonistic relationship between capital and labour. George Potter immediately showed a concern about its conservative element, because he believed that the employers' combination was aimed to protect their privileges by crippling local unions both of artisans and of agricultural labourers.²²³ The *Lloyd's Weekly* reported that the federation was a 'tyranny of the most dangerous kind', breaking the balance and deepening the chasm between capital and labour. When the coverage of industrial conflicts extended from those of a single trade to a national level, the only remedy seen as feasible was 'a national strike, as a reply to a national lock-out'. It concluded with W.H.S. Aubrey's comment that 'the working man hope no longer for conciliation. He must be up and doing; since the representatives of the National Wage Fund can bring all their forces to bear at any moment upon the smallest trade in the country'.²²⁴ Joseph Chamberlain, upholding a belief that free labour meant 'the most absolute freedom of combination' – 'the most absolute right of working men to

²²² J. Thompson, 'Modern liberty redefined', in G. Stedman Jones and G. Claeys (eds.), *The Cambridge history of nineteenth century political thought*, Cambridge, 2011, pp.739-45

²²³ *The Examiner*, Dec. 20, 1873

²²⁴ *Lloyd's Weekly Newspaper*, Dec. 21, 1873

unite to secure the best remuneration for their labour', argued that the NFAE was 'a disastrous failure' to suppress their united action. This would cause the division of the nation after the condition of 'internecine-war' between capital and labour. He looked for a settlement to 'an extension of the principle of arbitration', which enabled combinations of labour to 'have a share in determining what remuneration shall be paid to them for their labour'.²²⁵

For the purpose of achieving this development of the voluntary framework of collective bargaining, the strong reliance upon the concept of the public opinion was expressed by both Liberal and labour leaders. Mundella did not see the establishment of the NFAE as a foreboding issue and, rather, expected that it would be an opportunity to expose reasons of employers to 'an intelligent public' and encourage the latter to support the reform of iniquitous labour laws. He believed that it was opposed to their interests to make worsen industrial relations by rejecting the principle of collective bargaining and that the legal reforms would lead not only to 'the higher physical and intellectual development of children of this country', but also to 'a kindly feeling between all classes of the community'.²²⁶ The working classes were at present morally progressed to accept the principle and would not show the 'slightest tinge of hostility towards capital'.²²⁷ He was also sanguine about arranging a 'system of arbitration for the whole kingdom', because 'it is only through the action of such federations that a really national code of arbitration can receive the necessary sanction'. Either capital or labour, 'the parties who had rejected it as a peacemaker had been losers' and in the procedure it would be crucial to solicit

²²⁵ *The Sheffield & Rotherham Independent. Supplement*, Jan. 03, 1874

²²⁶ *The Sheffield & Rotherham Independent*, Jan. 17, 1874

²²⁷ *Birmingham Daily Post*, Jan. 15, 1874

‘obedience from the losing side’.²²⁸ Henry Slatter, a member of the Provincial Typographical Society, also thought that there was little doubt that the employers’ federation would produce evil results, as, making use of it, trade unionists were possible to meet ‘one or two of the best and wisest of the employers’ to carry out trade negotiations. The sound performance of collective bargaining between federal organizations of capital and labour was to be secured by the reforms of labour laws.²²⁹ Joseph Arch mentioned that the NFAE’s exposition to the public would result in increasing their accountability. Frederic Harrison agreed with his point that federalization would stabilise industrial relations in terms of enabling a regular arbitration and alteration of the laws, as it would behove employers to become moderate. William Morris, the chair of the Halifax Chamber of Commerce, admitted that the NFAE’s purpose was ‘defence and not aggression’ in favour of representing ‘one interest in a great court of conciliation and arbitration’.²³⁰ It was obvious that there was a growing expectation to rationalize the principle of collective bargaining with the endorsement of federative bodies of capital and labour, which were supposed to make its procedure more open, stable and credible by laying it before the eyes of the public.

It appeared that Mundella’s original model of community-based framework of boards of conciliation and arbitration was no longer deemed to be viable. In the early 1870s the so-called ‘arbitration craze’ occurred among industries with trade unions. It has been argued that almost all unions experienced settlement of industrial disputes by the mutual solutions.²³¹ Even the Agricultural Labourers’ Union agreed with the County Chamber of

²²⁸ *Hampshire Telegraph and Sussex Chronicle etc*, Jan. 17, 1874

²²⁹ *The Sheffield & Rotherham Independent*, Jan. 15, 1874

²³⁰ *The Bradford Observer*, Jan. 17, 1874

²³¹ Allen, op.cit., p.240

Agriculture of Warwick to set up the conciliation board in 1872 with Joseph Arch's remark that 'when landlord and farmers and labourerscan sit down together, and rise up together in a spirit of good fellowship, then the millennium will be at hand...'.²³² However, this growing tide of industrial democracy was receded after the economic downturn of the late 1870s. The amalgamated unions of craft workers in engineering and building industries recovered their influence by forming federations to coordinate interests with adjacent societies. On the other hand, the locally based industries such as coal-mining attempted to hold out by inventing the new measure of joint control like the sliding scales.²³³ Thomas Burt thought that the arbitration system was not perfect, because in most cases arbitrators were sympathetic to the side of the capital. In fact, confronting strikes and lockouts of the coalmining industry in 1876, Mr. Laird from the Newcastle Trades Council, speaking of arbitration in the annual meeting of the TUC, expressed discontent that the character of award was defined by 'the extent to which the coalowners humbug the arbitrators and umpires'.²³⁴ The same issue about the rejection of the reciprocal means by the employers was also added to the agenda of the next year's meeting.²³⁵ Mr. Gibson, the chairman of the Edinburgh Trades Council lamented that 'they (employers) had forgotten their old love for arbitration'.²³⁶ In responding to these situations, Burt considered that the sliding scale was useful for getting rid of the difficulty: 'it would be as true mathematics could make it; there would be no human passions, for there would be no umpire'. With its high accuracy, the sliding scale would become the 'barometer' which would tell the 'pressure of the atmosphere'. The salient point did not

²³² J. Arch, *Told by himself*, London, 1898, p.218

²³³ A.J. Reid, *United We Stand*, pp.164-5,194.

²³⁴ *Cheshire Observer*, Sep. 23, 1876

²³⁵ *Liverpool Mercury etc*, Sep. 18, 1877

²³⁶ *The Dundee Courier & Argus and Northern Warder*, Sep. 19, 1879

change. It was important for labour to stand firmly ‘man to man’ and that ‘there had not been a single secession from the ranks of the association’.²³⁷ By an appeal to ‘reason and argument’, the rates of prices and wages were to be determined by regular meetings between capital and labour. Burt argued that the sliding scale revalidated the power and value of trade unions in propping up ‘conciliation and good feeling between the men and their employers’.²³⁸ At the bottom of this frame of mind, there was Burt’s strong disposition to the co-operative ideology. In his autobiography, he declared that it was miners’ spirit of co-operation which enabled them to follow the rule of collective bargaining during the economic depression in the late 1870s.²³⁹

Our arbitrations, and for the most part our sliding scales too were fated to be in operation during and extremely critical period of trade depression, and however partial their success they carried us over the crisis with less friction and with smaller reductions of wage than took place in almost any other mining district. To the credit of our men I am glad to say that in all our history and throughout our whole negotiations, whether the medium was an Arbitration Court, a Wages Committee, or a Conciliation Board, the miners invariably accepted and carried out their agreement. In all our general wage reductions, by the methods named, never was a single pit stopped a day or an hour in resisting the award, however, distasteful or however hateful the result might be.

Nonetheless, it is worth interrogating what sort of changes these developments of the voluntary principle of collective bargaining brought about in the moral presumption of co-operation. The politics of free trade in labour adopted the voluntary principle for the existence of trade unions as the means of labour’s associational efforts to achieve their civic independence. This vision was still manifested in the TUC in 1878, when G.F. Jones,

²³⁷ *The Newcastle Courant etc*, Jun. 8, 1877

²³⁸ *The Sheffield & Rotherham Independent*, Jul. 27, 1880

²³⁹ T. Burt, *DCL Pitmen & Privy Councillor*, London, 1924, p.271

the president, declared that the voluntary principle formed the ‘basis of their political liberties, guaranteed to them (unions) by the Constitution’. It had an equivalent meaning to the ‘sacredness of personal freedom’, which should be ‘upheld and defended at all hazards; for the violation of that principle would jeopardise the very existence of their unions’.²⁴⁰ The public opinion as an economic regulator was in theory a last piece to complement the tripartite equilibrium of the interests between capital, labour and consumers, which embodied the *summum bonum* of moral economy boosted by the Christian rationale in the mid-nineteenth century. The co-operative ideology was, thus, demonstrated by the strong confidence in the public opinion by the liberals, who saw it as a role of building a bridge of trust between politics and society. This sense of classical liberalism, coloured with the Christian ethos, would see a danger of dismissal, if its characteristic of the tripartite equilibrium lost its moral consensus, confronting the growth of the market economy. J. R. Hicks, a well-known economist, suggested that in the early twentieth century the autonomy of moral economy was threatened by the centralized bodies, which drew authority away from the local unions. Since the local boards of conciliation was established in the progress of the liberal movement, there was an educational effect on both parties through working together on the boards and dealing with industrial issues for the purpose of maintaining their ‘trade customs’. However, such sentiment did almost disappear in the 1930s:²⁴¹

In an industry which is the home and centre of industrial progress, the maintenance of customs and traditions is not an easy matter. It is easy to see that conciliation would have been little use here, for even a radical employer would hardly have looked favourably on the unions’ rearguard action against

²⁴⁰ *The Bristol Mercury and Daily Post*, Sep. 11, 1878. *The Newcastle Courant etc*, Sep. 13, 1878

²⁴¹ J. Hicks, ‘The Early History of Industrial Conciliation in England’, *Economica*, vol.X, 1930, pp.25-6

economic progress, and an outside chairman would probably have been of the same opinion.

Concerns about the growth of the voluntary principle of collective bargaining were expressed by liberal intellectuals and Christian preachers in the late nineteenth century. Their remarks addressed the intrusion of material interests into the bulwark of religious liberty of individuals by diminishing the cause of conciliation movement between capital and labour. When Henry Crompton, a positivist barrister, published *Industrial Conciliation* in 1876, he examined how to secure independence of labour by legal reforms. It was important to nurture their economic independence through the boards of conciliation and arbitration. However, the boards were not a panacea. The moral education was necessary, because the institutions themselves did not teach them how to achieve their ends.²⁴² In particular, in the case of the arbitration court, it would not become a first priority to reconcile capital with labour. As long as a series of judgments by arbitrators ended up in imposing the ‘absolute rules’, they were in no sense ‘deductive applications of the truths of political economy’. They were just temporary outcomes deduced from accumulations of former awards. For Crompton, who laid emphasis on the importance of moral institutions in local markets, it was important to reach an agreement after ‘full consideration of all the moral and social circumstances of the case’. From this point of view, the growth of the voluntary principle of collective bargaining necessarily entailed the separation ‘between moral and economic laws’, in which ‘the former must be disregarded in coming to practical decision on these matters’.²⁴³ Rupert Kettle’s

²⁴² H. Crompton, *Industrial Conciliation*, London, 1876, pp.8-11

²⁴³ *Ibid.*, pp.25-9, 30

arbitration court was denounced as just offering temporary expedients and hardly preventing strikes and lock-outs. The organizations of capital and labour should resort to the boards of conciliation and arbitration 'as the instrument for establishing peace and good will, liberty and justice.'²⁴⁴

A board of conciliation can achieve that at which arbitration should aim, that is, a moral and religious settlement, necessarily based on a due regard to all economical conditions and facts. Mr. Kettle has done good service by insisting on the business character of boards of arbitration. Business does not exclude, but should be based on and subordinate to, justice and morality.

On the other hand, Rupert Kettle, who became the president of the Working Men's Club and assisted in setting up the arbitration courts, argued that it was a role of clergymen to focus upon the moral effects of trade unions in the case that public opinion condemned the latter. It could often be seen that the rules of political economy were contrary to the 'doctrines of Christian Charity'. Since the long-established master and servant relationship was now replaced by the relationship of ordinary buyers and sellers of labour, there was the 'prone to unholy avarice which comes of such traffic'. The 'sin of covetousness' appeared, when individuals by the 'accumulated zeal' sacrificed what 'he feels his private' to what 'for the time he believes to be his corporate duty' for the benefit of the association. Confronting such situations of individuals being enforced 'personal wrong' for 'corporate good', what clergymen could do was by exerting the influence of their ministerial office to 'admonish those under his pastoral charge to a more strict regard of personal duty'. Each worker had an obligation to serve his family and capitalist to provide the former with the 'means of subsistence in return for their labour'. Clergymen's

²⁴⁴ Ibid., pp.31, 40, 85-6,95,144-6

assiduous check on whether individuals could undertake the performance of their primary duties, rather than secondary and corporate ones, would support them to carry out ‘what is positively and primarily right’:

An exigency has arisen in modern society for those who have undertaken, under the most solemn of human obligations, the duty of spiritual pastor, to reconcile those institutions which have grown out of a great social necessity with immutable justice between man and man.

Therefore, Kettle stressed the advantages of the arbitration court, not only as a peaceful alternative to strikes and lock-outs, but also as the ‘expedient of obtaining an impartial judgment’, to which clergymen, as ‘teachers of the doctrine of peace’, should resort for the sake of their ‘sacred influence’.²⁴⁵ This did not mean that Kettle lacked confidence in trade unions. Far from it, he believed that they could play an important role not only in promoting free thought and free action among working classes, but also in evoking their respect for the law and moral means to achieve ‘what they believed to be right’.²⁴⁶

What Crompton and Kettle’s apprehensions shared in common was the undeniable fact of the growth of political economy, which became less congruent with the moral presumption of collective bargaining. The principle of political economy began to deviate from its consolidated bastion of the religious concord. Once, the boards of conciliation and arbitration were the place where capital and labour discussed their reciprocal ‘rights and duties’ on equal terms. Some industrialists believed that by this means it was possible to exert their moral influence upon working classes, whereas trade unionists to carry out unions’ programme to halt overproduction. The co-operative ideology underpinned their

²⁴⁵ *The Morning Post*, Oct. 10, 1877

²⁴⁶ *Cheshire Observer*, Jun. 30, 1877

frames of mind. However, its moral consensus underlined by the humanitarian discourse of Millian political economy was in peril. Trade unions were considered to be powerful instruments for the teaching of political economy. *The Examiner* still upheld this view and it argued that the knowledge of political economy stood ‘most in need’ for both organized capital and labour to complete the arbitration or conciliation system and to reach common consent in a harmonious manner.²⁴⁷ Indicating weakness and inconclusiveness of the arbitration system, Robert Moffat, a Scottish Congregationalist missionary, argued that its partiality was caused by a ‘strong bias’ on the side of employers – so many decisions were founded on the principle that ‘the employers best understand the facts and necessities of their position’. By this unequal treatment under arbitration, labour had to either accept the superior understandings of their employers or decline to submit to arbitration and provoke strikes to counteract their intentional unfairness. This class biased attitude was forged by the ‘solemn lessons of political economy’. However, he denied as ‘an utterly false and groundless assumption’ the fact that political economy was more on the side of the employers than on the side of labour – ‘Political economists are on the side of the employers; but political economy is not’.

Moffat considered that it was not only the interest of employers against labour, which spurred the division of the class interests. Rather, the principal impetus for employers to extend production was the ‘competition’ with other employers – ‘that is his individual interest’. It resulted in opposing to the restriction of their production, by which the demand ‘must always be forced, by lowering cost and reducing wages, to come up to the supply’. In this condition of unlimited competition there was no demand for labour

²⁴⁷ *The Examiner*, Sep. 8, 1877

holding out against reduction of remuneration until the exhaustion of other labouring capacity. Nonetheless, Moffat insisted that because of this ‘weakness, due to the isolation caused by competition’ it was possible for labour to make a plea of the ‘strongest justification of the independent action’. If employers pursued the policy of overproduction, labour became companions of their economic ruin; ‘Why, then, should not the latter look after their own interests?’ There seemed to be no longer ideological means to fill the gap of the interests between capital and labour:²⁴⁸

It is to the perpetuation of this excess of power to which we owe so much mercantile disaster, and so much mercantile dishonesty, that the incessant advice of the Press in labour disputes is directed. This must be so as long as the Press trusting to the partial reasoning of a false science, urges general arguments against one side in such disputes, while all the arguments derivable from true science are equally applicable to the excesses of either.

Moffat’s view insinuated dissolution of the moral basis of co-operation – the strict equilibrium of the tripartite interests between capital, labour and consumers. However, there was still strong confidence in the public opinion to decide the fair rates of wages. R. S. Wright, a liberal barrister, proposed in the TUC to establish the supreme board of appeal or arbitration in London, where he believed to be the centre of public opinion. Impartial judgments would be secured, he argued, by Mundella, Brassey, Lord Derby, Kettle, Crompton, Harrison, and David Dale, who were able to ‘command public opinion’ through the central board system.²⁴⁹ Arnold Toynbee argued that the rates of wages were not determined by competition in the market, but by the board of arbitration in which not only the public opinion of the newspapers, but also that of the workmen and the employers

²⁴⁸ *The Standard*, Jan. 29, 1879

²⁴⁹ *The Leeds Mercury*, Sep. 18, 1879

were expressed. Unless competition was modified, ‘the condition of the workman in England was not likely to improve at any very great pace’.²⁵⁰

Thompson has argued that after the dismissal of the wages fund doctrine, there was no coherent economic theory to determine wage rates until the 1920s. Meanwhile, the public opinion as an intangible economic force was regarded by economists as the ‘referee of last resort’. The theoretical indeterminacy of wage rates was rendered by the historicist and inductive disciples into economic accounts of remuneration linking higher wages with increased productivity, which was presented, in particular, by Brassey. The individualist approach taken by Marginalists could not throw off their legacy and it was well reflected in Marshall’s proclamation of his approval of old unionism. However, the positivist principle of the public opinion characterized by ‘acute self-consciousness and interventionism’ was more applicable to modern economics than less self-conscious disposition of historicist studies and easier to register qualification of the ‘increasing individualism’ in its holistic school of thought.²⁵¹ Therefore, Marshall’s theoretical handling of public opinion to explain remuneration was inclined to assume as an economic force ‘the desire of men for approval of their own conscience and for the esteem of others’.²⁵² Still, trade unions were considered to be central to the influence of public opinion and by the means of the federalization of organizations of capital and labour, local interests were constellated in front of the public at the national level. The increased power of public opinion was synonymous with the consumerist public ‘against the selfish interests of sectional producers’.²⁵³ Under this circumstance, outcomes of collective

²⁵⁰ *The Sheffield & Rotherham Independent*, Feb. 06, 1882

²⁵¹ Thompson, op.cit., pp.193-5

²⁵² Ibid., p.198

²⁵³ Ibid., pp.199-200

bargaining were basically dependent on ‘comparative bargaining strength’ of the respective sides. Besides Marginalism, the positivist social philosophy of public opinion was widely shared in the academic discourse of economics and given the impetus as the moral force in the course of economic competition. In the ‘living wage’ question from the 1890s, it was still considered to serve the adjudicatory function.²⁵⁴ This section saw apprehensive views of contemporary intellectuals, who feared the separation of the economic discipline of political economy from moral economy. The ideological watershed between traditional and modern conception of the market principle seemed to be marked, when the intellectual discourse of public opinion was merged with the more organic and holistic visions of integrated society than its humane role to guide the autonomy of economy. Especially, when the public defence of the minimum wages sought its economic legitimacy by drawing upon the high wage theory.

2.4. The Growth of Co-operation and Industrial Peace

The voluntary framework of collective bargaining was successful embodiment of the co-operative ideology in the series of the trade union acts. However, in the state of ‘collective *laissez-faire*’ there was a persistent tendency to see trade unions as a threat of collective tyranny trampling over non-union individuals. This frame of mind shared its theoretical basis with anti-democratic and –class war sentiment expressed by the Adullamite Liberals such as Robert Lowe, who formerly believed that trade union activities were ‘in restraint of trade’ and deleterious to the harmonious operation of the individualist market doctrine.

²⁵⁴ J. Thompson, ‘Political economy, the labour movement and the minimum wage, 1880-1914’, in Green and Tanner (eds.), *op.cit.*, p.64

For such exponents of the deistic principle of political economy, giving the legal status to trade unions and rights of free collective bargaining had almost the same sense as to ‘leap in the dark’, as far as it limited individuals to pursue their own interests. Curthoys, focusing on the Home Office officials, has argued that the Trade Union Act of 1871 was a political expediency to prevent the intrusion of ‘class’ warfare into the parliament.²⁵⁵ The associational privilege was given to trade unions, by which they were immunized from legal prosecution as the corporate body. In this perspective, trade unions were disparaged as mere fighting organizations of the working class, whose main concern were their material interests. The repeal of the CLAA was, therefore, a herald of the ‘class feud’ in terms of enabling trade unions to exert their freedom to strike’, because there was no legal capability to halt the collective pressure, which individuals would encounter.²⁵⁶

This deductivist vision of the market principle gradually gained momentum in proportion to the decline of the co-operative ideology shared between capital and labour. When the voluntary framework of collective bargaining was established, their moral efforts to reach reconciliation were reckoned to achieve equilibrium between the interests of producers and consumers. This ideological mainstay wavered, when the course of collective bargaining was affected by the growth of the deductive approach to the market. It is likely to describe this restoration of deductivism as the breakpoint of ideological conflicts between individualism and collectivism, but possible to be outlined as an economic shift from moral economy to modern mode of production, which occurred in the battleground of voluntary institutions of collective bargaining. In the process of this transition there were two focal points to be noted: the growing antagonism towards conventional trade

²⁵⁵ Curthoys, *op.cit.*, pp.137, 191-2, 207

²⁵⁶ *Ibid.*, pp.164, 239-40.

union practices and the ideological progress of productivist co-operation. Both of these views were discursively intertwined in terms of giving authority to the deistic market principle, which was believed to result in the prosperity of the national economy. Confronting this economic reality, the traditional trade union programme of halting overproduction by holding back abundant labour and securing reserve price for their daily labour was no longer reasonable.

Leone Levi, a jurist and economist, developed this view by insisting on collective tyranny of trade unions against the economic orthodoxy of supply and demand. He conceded the combination of labour as the means of labour to hold on for the operation of the market and useful for adjusting the wage rates more responsive to its operation. However, it would often 'produce a state of irritation and discontent which often interferes with the progress of production', because the restriction of supply of labour by trade unions and its artificial prevention of a fall of wages were deeds of monopoly, when economically wrong, interfering with freedom of labour and the general economy of production. Since 'both employer and employed alike depend upon production as the only source for profits and wages', 'the certain consequence of the withdrawal of labour being to discourage production, to enhance cost and to increase the difficulty of foreign competition – injurious alike to the producer and to the whole community'. To remove such hindrance to successful production, what became the best safeguards were 'a proper sense of the necessity and utility of continuous labour, an earnest desire for the achievement of excellence in workmanship in every branch of industry and a keen and lively interest on the part of one and all to promote national prosperity'.²⁵⁷

²⁵⁷ *The Morning Post*, Sep. 2, 1875

The productivist strand of the market principle favoured the improvement of the condition of labour through the material growth. For this purpose, it was seen as valuable to adopt the co-operative production, in which the working classes could learn know-how to become capitalists. In the social science congress of 1877 John Watts, a former Owenite reformer and co-operator, denounced the policy of trade unions as protectionism and its tendency to 'destroy capital'. It was beneficial for the interests of workers to increase available capital, but the policy of the unionists was in opposition to this axiom and tended to 'lessen production, reduce capital, and prevent the best men from raising themselves'. Industrial strife by means of strikes and lock-outs would cause wholesale demoralisation and the only remedy was 'compulsory arbitration'. He believed that the accumulation of capital was to be done more advantageously by the hands of the employers than of workmen, so the joint-Stock Companies were the ideal way of co-operation, whose shares were possessed by the latter, but belonging to the associations of the former.²⁵⁸ Thomas Brassey also showed his approval of co-operative production and mentioned that the 'utility of the trades unions need not be confined to the single question of wages'. It would be beneficial for the welfare of the people in terms of providing 'rational amusements and technical education'.²⁵⁹ It was the best means of 'ascertaining the fairness or the reverse of the employers' demands'. In the short run, the arbitration board was certainly useful to settle industrial disputes, but in the long run, co-operative production would be the essential feature of the social state.²⁶⁰

The historical current of co-operative production, which was rooted in Owenite

²⁵⁸ *Aberdeen Weekly Journal*, Sep. 21, 1877

²⁵⁹ *The Sheffield & Rotherham Independent*, Sep. 22, 1877

²⁶⁰ *The Examiner*, Feb. 9, 1878

experiment and developed by the Christian Socialists in the early nineteenth century, at this point, began to overlap with the ideological context of the voluntary collective bargaining. In fact, from the beginning, the moral consensus on the voluntary framework of collective bargaining had faced the severe criticisms from co-operators inside and outside trade unions. Archibald Briggs of the firm of Henry Briggs, Son, and Co., Limited, pointed out its vulnerability as early as in 1870. He argued that Mundella's system could not become a panacea as long as it was possible for the workers to elude demands of public opinion by leaving their districts, to which the employers needed to pay careful attention and in most cases agreed to be bound. This led the latter not to accepting the awards of arbitrators. Instead, co-operative production grounded upon the joint-stock company was proposed as a solution to this labour question. Improvement in the financial position of collieries was inevitable to 'the social and moral condition' of the colliery communities in Normanton. For Briggs, since labour did not have the executive ability, or practical knowledge of management, they could not escape from the 'thralldom of capital' and participate in productive concerns. While 'associations of workingmen' were not proposed to grant to labour 'any share of profits', industrial partnership would enable the true union of two classes to seek the common good in the heartiest manner.²⁶¹

When the Trade Union Act of 1871 gave trade unions the legal status, they were bound by the terms of the Friendly Societies Act, by which their funds were exempted from legal charges imposed upon corporate bodies. Contrary to this premise, there was strong complaint among members in regard with unions' incapacity to invest their funds for the purpose of incrementing their share. Trade union leaders seemed not to be unaware of

²⁶¹ *The Sheffield & Rotherham Independent*, Mar. 10, 1870

advantages of co-operative production, but basically against investment of their funds, as needed for immediate use in the cases of industrial disputes and welfare expense.²⁶² Andrew Boa from Glasgow insisted that just upholding the motto of ‘each for all and all for each’ did not secure the ‘sacred gains of labour’. To achieve an equitable distribution of wealth ‘productive co-operation’ was imperative. While restraining the imperious law of supply and demand, it enabled labour not only to employ the capital at their disposal, but also to have an ‘inviolable right to participate equitably in the distribution of the profits’.²⁶³ James Peattie, from Dundee, considered that if an immense amount of savings of trade unions could be invested into joint-stock companies, industrial partnerships or co-operative associations, it would return more percentage and root out causes of strikes and lock-outs. On behalf of the advancement of labouring class, they ‘ought to make their social and moral position go hand in hand with their pecuniary advancement’.²⁶⁴ Henry Slatter was also a co-operator. After discussing the plausibility of incorporating trade unions under the Limited Liability Act, he argued that trade unionists could not object to the formation of societies for their own self supply ‘guided by themselves’. In this sense, the rules of co-operative societies were not inconsistent with the objects of trade unionists aiming to ‘promote the practice of justice, truthfulness, and economy in production and exchange’ with subscription to their funds.²⁶⁵ Rather than insisting on the ‘rights and duties’ of industrial relations, these statements emphasized the remunerative advantages gained by speculation of union funds for a step to co-operative production. J.D. Prior of

²⁶² *Birmingham Daily Post*, Apr. 12, 1871

²⁶³ *Glasgow Herald*, Jan. 18, 1873

²⁶⁴ *The Dundee Courier & Argus and Northern Warder*, Dec. 31, 1875

²⁶⁵ *The Sheffield & Rotherham Independent*, Sep. 25, 1876

carpenters' union declared its common benefit in the TUC as follows:²⁶⁶

Trade unions taught workmen how to dispose of their labour on the best possible terms, after which co-operation took up the question and showed the best mode to dispose of the profits trades unions enabled them to make. The sooner trade unions and co-operation worked in common with each other the better would it be for the working classes.

The ideological dilemma between the frugal co-operation of moral economy and the expansive co-operative production could be seen in the Co-operative Congress in 1877. The fault line of the discourse was drawn between the frame of mind of co-operation between capital and labour for the interests of the great masses of the people and that of co-operation founded upon increased profits. Canon Vaughan, a vicar of church, argued that co-operation was to replace the hostility between 'two sets of forces' – capital and labour – and that co-operation ceased to be co-operation, when the co-operators forgot their priority of reconciling these two forces as all their aims and efforts and carried out their business as ordinary employers did – e.g. paying the market rate of wages and discharging labour. Whether the movement was successful or not was seen to depend heavily upon their moral strengths – 'the patience, self-sacrifice, thrift, toil, and providence'. In conclusion, Vaughan warned co-operators never to 'allow the moral and social influences and advantages of the system to be lost sight of in, or even overshadowed by its pecuniary and commercial advantages'. The Hon, Auberon Herbert made a distinction from joint-stock companies in respect of protection of manual producers as the end of co-operative production and emphasized the importance of competition in the market to elevate characters of self-help, self-reliance and nobler

²⁶⁶ *Liverpool Mercury etc*, Sep. 25, 1876

individuals.

On the other hand, discussing the relationship between capital and labour in the expansive co-operative production, Frederick Smith argued that a distinct position of labour from shareholder or capitalist would cause trouble in the periods of either economic expansion or stagnation. The activities of trade unions were incompatible with the principle of co-operative production for the reason that it was imperative to reconcile the 'iron rule of the profit-maker with the tendency of the trade unionists to increase both the quantity and the cost of the manual labour required for the production of a given article'. Considering the difficulty in making a just division of profits in a definite way, he believed that it was wiser to make a workman participate as a shareholder. By this means adequate rewards would be received by the 'stead, thrifty workman, without wasting our energy and our money upon the idle, the drunken, or the improvident'. This could be done by 'giving increased facilities to the workman for becoming a proprietor'. E.V. Neale pointed out that the means of trade unions to improve the position of workers were inefficient insofar as they ended up in evoking 'tyrannical oppression towards the very class for whose benefit they are formed', limiting their own freedom by injuring the general public in strikes and lockouts. If the organized labour facilitated co-operative production, the 'law of love' would pervade society and the 'burden of each will become light because all will learn how to bear the common burden in common'. This could be achieved by the employment of union funds for loans to members to increase their shares as well as that of societies through a return on investment. Slatter still maintained that the general depression made it desirable to promote co-operative investments which were 'more profitable', as huge savings of union funds would help the growth of capital as long as

they were in the hands of bankers.²⁶⁷ Later, he mentioned that ‘the spirit of friendliness’ was exhibited in the congress and it was successful to convey ‘to the trade unions its conviction that their aims are identical with ours: we both desire to raise the workers of the country by the great principle of association; and we earnestly hope the leaders of the trade unions will be prepared to join with us in considering how we can practically unite their organized labour in our organised consumption to bring about successfully co-operative production, using profitably the capital of both’.²⁶⁸

These criticisms made by co-operators on the economic policies of trade unions obtained the economic legitimacy, when due to the growth of deductivist vision of the market principle they were merged with the class-based approaches to the voluntary procedure of collective bargaining. Its productivist inclination was inevitably directed to criticisms of economically irrational practices of trade unions. An orthodox economist, W.E. Jevons, considering the good *laissez-faire* relationship between the state and market economy, argued that the higher the *esprit de corps* of trade unions was lifted, the more beneficial to the public they would be. However, it was not improbable that they would experience ‘degeneration of associations’, by which he meant monopolistic attitudes of trade unions. After the full legal rights were given to the latter, it was possible for them to achieve an increase in earnings through discretionary use of their moral right to strike. Trade unions’ exclusive privileges of limiting the number of labour and keeping their market price above the natural rates of wages were deleterious to the public interest. In order to prevent trade unions from falling into anomaly, the ‘public and the Legislature’ needed to keep ‘vigilant eye on all such bodies’ and reform as soon as possible, once they ‘fall away from their

²⁶⁷ *Leicester Chronicle and the Leicestershire Mercury*, Apr. 7, 1877

²⁶⁸ *The Standard*, Sep. 18, 1877

original good purpose'.²⁶⁹ Considering a difficulty to move the legal sanctions into effective operation, the enactment of the trade union laws in the 1870s was inevitable for the state. Nonetheless, Jevons pointed out that in the case of industrial emergency, which would cause serious damage to the national economy, the Conspiracy and Protection of Property Act of 1875 opened up a possibility to exert 'some legal authority capable in the last resort of obliging citizens to perform certain essential duties' – any breaches of contract between capital and labour could be punishable for the violation of social orders.²⁷⁰

As a critique of collective tyranny by trade unions, Jevons could not help encouraging co-operative production. One of main causes of industrial disputes was the 'anti-capitalist feelings of the workman', who believed that 'he is by the nature of things cut off from the possession of capital, and even looks upon it as contrary to the *esprit de corps* of his order to own capital'. There were no other ways to break down this 'most mistaken and lamentable feeling' than the 'insidious way in which capital accumulates in a well-managed co-operative society':²⁷¹

The balance not only grows, but its growth excites the more interest because the owner, as a customer, a member, or even a committee man, assists in its growth, and may take part in the management of the affair. ...savings deposited in almost any form of co-operative company tend to excite the instincts of the capitalist, and to acquaint the owner with a new view of the labour question.

What he implied by using the phrase, 'a new view of the labour question', became clear

²⁶⁹ W.E. Jevons, *The State in Relation to Labour*, London, 1887 (first pub. 1882), p.124

²⁷⁰ *Ibid.*, pp.136-7

²⁷¹ *Ibid.*, pp.140-1

when the effective industrial partnership was successfully established. Whereby the interests of workman were necessarily 'bound up with those of his employer' and, therefore, 'should be pitted in fair competition against those of other workmen and employers'. Jevons pointed out that there were no longer legal obstacles at present to dampen the 'zeal to produce the best and the cheapest and most abundant goods':²⁷²

The old mistaken law of unlimited liability is sufficiently set aside by the Companies Acts of 1862 and 1867, and also by the Partnership Law Amendment Act of 1865, which allows any trader to give an employee a share of profits without thereby rendering him liable as a partner, or giving him right to demand an account.

The existence of trade unions altered the nature of higgling and caused a dead-lock in the process of collective bargaining. Since wages and prices were determined by the law of supply and demand, it was desirable that individual workman was able to make a bargain with his employer.²⁷³ Jevons agreed that the voluntary solution was the ideal way to settle industrial disputes, but what was the 'great evil' at this moment was the 'entire disunion of the labourer and the capitalist'.²⁷⁴ The interference of trade societies should not be allowed, if it would be directed to sectional welfare against the rest of the community. In order to rectify such adverse situation, it was preferable to arrive at conclusion of industrial issues by a 'careful estimation of the total utilitarian results'.²⁷⁵

In the age of the growth of capital the principle of co-operative production, based upon the deductive approach to the market, was considered to be an alternative measure to

²⁷² Ibid., p.141

²⁷³ Ibid., pp.153-4

²⁷⁴ Ibid., p.163

²⁷⁵ Ibid., p.165

avoid the class struggle between capital and labour among trade unionists. The conventional trade union strategy to halt overproduction was under the threat of this materialistic frame of mind. In 1880 J.D. Prior, the chairman of the Parliamentary Committee of the TUC, believed that it was possible by adopting co-operative production to raise the 'whole mass of the community' to a 'higher position of comfort, intelligence, and respectability than they had yet attained'.²⁷⁶ In the T.U.C. William Swallow, a co-operator, read the paper about co-operative unions, in which he argued that the principle of co-operative production would enable the scheme of self-employment. Workmen could secure the profits by themselves, to which their employers hitherto had exclusive access. By this means, workmen were no longer the 'hired servants of capital', because there was no reason why 'if working men can make business prosper for the advantage of the capitalist, they should not make it prosper for the advantage of the worker'.²⁷⁷ Four years later, John Burnett declared in the congress that the 'heart of the trades-unions of the country beat in complete unison with the hearts of the co-operations of the country', as long as co-operative production was 'the ultimate goal of many of their (trade unionists) desires'. Robert Knight seconded this view and pointed out a practical difficulty which hampered trade unions to go hand in hand with co-operation and to advance their interests:

Unless the Congress altered their rules they could not take any of their funds to establish co-operative production. What they ought to do, and what every other society in the same position as they were ought to do, was to establish a co-operative society on the principle of limited liability.

²⁷⁶ *The Daily Gazette*, May 6, 1880

²⁷⁷ *Freeman's Journal and Daily Commercial Advertiser*, Sep. 17, 1880

John Borrowman admitted that it was a good thing for the interests of labour to make capital more available for them. He believed that a 'higher and truer solution' was in 'self-employed labour', since 'until the working men created for themselves capital to employ their own labour their true status could never be recognised'.²⁷⁸

It is misleading if this materialist vision to promote the expansive principle of co-operative production was considered to be the polar opposite of the individualist or anti-socialist economic ideas in respect of restraining evils of competition. Their accounts of a rise in remuneration linked with higher productivity undermined assumptions of primacy of capital and uniformity of wage rates and associated the question of distribution of wealth with moral or utilitarian judgments. However, when the ideology of co-operation was used as the means to fend off class struggle by inculcating the capitalist's spirit to labour, the economic discourse of co-operation began to merge with the ideological ideal of individualism. It was demonstrated especially by economists in the Economic Association and the Liberty and Property Defence League, who were aimed at erecting a 'pure science of economics' in order to bring back authority of the absolutist market principle. John Mason, placing utilitarian economists such as Jevons contrary position to individualist economists, clearly pointed out that the voluntary co-operation was used for the defence of individualist economic principle and that in the early 1890s, articles of individualist economics such as Thomas Mackey and Henry Wolff 'stood cheek-by-jowl' with those of the Christian Socialists in the pages of the *Christian Socialist journal* and the *Economic Review*.²⁷⁹ Despite the fact that the mainstream liberal

²⁷⁸ *Aberdeen Weekly Journal*, Sep. 11, 1884

²⁷⁹ J.W. Mason, 'Political Economy and The Response To Socialism In Britain, 1870-1914', *Historical Journal*, vol. 23, 1980, p.577

economists sought to temper the unrestrained operation of the market without infringing private property and free enterprise, this situation was not surprising, when the economic perspectives of both schools were anomalous in the light of the productivist and growth-oriented principle of co-operation, which, however, ended up in emasculating the traditional and countervailing programme of trade unions – maintenance of autonomy of labour by constraining overproduction and limiting the number of apprenticeship. The individualist attempts to re-erect ‘scientific’ economic theory were, nonetheless, based upon a more inflexible belief that the market activities should not be intruded by the moral and political considerations.

This individualist economic thought remained peripheral, but denoted crucial difference from the intellectual discourse of classical political economy, which was founded upon Adam Smith’s theorem that exchangeable value of commodities was balanced by the quantity of labour necessary for their production. In this perspective, the macro-economic usage of the wage funds theory was even not sufficient to explain the value of capital, because wages were determined by the quantity of labour. Therefore, the proponents of individualism in the late nineteenth century scoffed at the socialist idea that the labour had the right to the whole produce of industry. They suggested instead as alternative metaphysical factors of the true sources of wealth more rare and mental aspects of human-beings, which were often represented in economics by the ‘right’ to property and the ‘mind’ and ‘ability’ of the entrepreneur and landowner in the creation of wealth’.²⁸⁰ In principle, the driver of market economy was not motivated by the self-less virtues such as the reciprocal rights and duties between capital and labour, but was more oriented to

²⁸⁰ Ibid., p.587

maximising his self-interest and thrift in his market activity. However, it is important to keep in mind that when reformation of the economic discourse took place after the discovery of poverty in the 1880s, the socio-political concept of public opinion played a central role to reconcile a loss of confidence in the self-regulating function of the market and was widely upheld among the mainstream liberal economists including Marshall, Foxwell, Price and Pigou. The salient point was how such economic discourse of public opinion managed to hold off political embrace of industrial relations between capital and labour – avoid engaging in one class against another by adjusting the interests between producers and consumers. In Britain the modern market principle with the concept of national economy advanced together with the ideological pervasion of the productivist version of co-operation, which had unravelled the mid-nineteenth century Christian consensus to achieve the free and fair equilibrium between tripartite economic forces of capital, labour and consumers through the voluntary and local framework of collective bargaining. Needless to say, the epicentre of the series of ideological upheavals was the intellectual discourse of trade unions and their aftermaths were concentrated on political discussions about the utility of collective bargaining.

One numerical survey suggests that there was a gradual advance in the real wages accompanied by cheaper food and raw materials in proportion to industrial productivity between 1873 and 1895. Wilkinson and Tarling have attributed these trends to political influence of collective bargaining with its process of wage and price determination. They argued that its economic effects reached stalemate, when it faced the heightened resistance from the employers' organizations due to the increased pressure from

international trade in the 1890s.²⁸¹ Henceforth, the voluntary framework of collective bargaining was placed under the vigilance of politicians and bureaucrats, who held it as the official policy to promote peaceful solution and intervene with industrial disputes. Did this mean that the scheme of collective bargaining was advocated for accommodating trade unions to the deterministic principle of the market, which historians of industrial relations saw as trade unions' acceptance of rules of market economy to stabilize national economy and exclude under cutters? Before moving to national political debates about the voluntary collective bargaining, it is worth mentioning how the liberal intellectuals saw the current economic problem of industrial relations to avoid generating a class-based frame of mind between organizations of capital and labour. As mentioned above, the factual tendency to separate between the moral and economic law was a persistent concern from the beginning of the legal establishment of the voluntary collective bargaining and continued to beset liberal economists and clergymen. How did they attempt to address this undesirable situation of conflictual relationship of industrial relations?

In the Church Congress at Leicester, W.E. Fox considered that the cause of industrial disputes between combinations of capital and labour was mainly as to the 'division of profits' accruing from 'industrial partnership'. He pointed out that the present antagonistic disposition shown repeatedly by trade unions was likely to produce evils to society. It not only became a restriction of production and discouragement of superior workers, but ironically resulted in driving away the 'kind' and 'gentle' employers, who had the 'welfare of their workpeople really at heart'. In face of such conflictual state, the

²⁸¹ R. Tarling & F. Wilkinson, 'The Movement of Real Wages and The Development of Collective Bargaining in the U.K.: 1855-1920', *Contributions to Political Economy*, Vol.1, 1982

Church should instil their divine teaching of eternal truths into the ‘hearts of their people’:

“My duty to my neighbour is to love him as myself, and to do to others as I would that they should do to me.” Let them preach and practice that Christ like unselfishness which so opposed to the spirit of the world and treated with ridicule. “Seeks every man the things of others,” and thus the spirit of Christ in Christian men will bind together these opposing forces, and bring peace and concord over these troubled waters. Where strife and conflict unhappily exist, let the clergy be the messengers of conciliation, peacemakers, and not partisans.

The scheme of arbitration boards was considered to be the best remedy, while it was too much to expect it as a panacea for all difficulties. It would not succeed unless both capital and labour were prepared to ‘make some concession’. Fox believed that the teaching of political economy was imperative to remove ‘distrust and suspicion’ grown between capital and labour, because much of strife ‘is caused by ignorance of its most elementary and fundamental laws’.²⁸²

The belief in the role of Christianity to inject the spirit of conciliation into the industrial relations persisted in the late 1880s. H.H. Snell at the Wycliffe Congregational Church maintained that it was not for the interest of trade unions to hamper the employers, who would ‘always remain master of the situation’. The problem was something more than a matter of the wage rates. A ‘little more confidence and conciliation’ was necessary, because ‘moral considerations undelay the whole subject’. To achieve this was a ‘struggle for self’ and, for him, what meant a moral act was the preparation for ‘an unselfish work’ which would raise the condition of the country. The development of moral qualities would encourage the progress of civilisation from the ‘selfishness of animalism to the

²⁸² *Nottinghamshire Guardian*, Oct. 1, 1880

unselfishness of brotherhood'. To sum up, the ultimate purpose of their divine teaching was to revive mankind strengthening 'kindly, friendly, sympathetic bonds':²⁸³

Frederic Harrison said three years ago "Positivism in the air," meaning that that view of humanity as a brotherhood, and of life as the only available field for the exercise of religious qualities, was extending more and more. He was glad to believe that Mr. Harrison was right as far as he meant it; but he wished he could say "Christianity is in the air." Christianity was not on the side of any class, but on behalf of all classes or rather Christianity was to abolish the enemies of classes, raise up those that are low down, extend to them all means of development, bind men together, and enfranchise them in the kingdom of the good.

These commentaries of the clergymen exhibited the fact that the religious discipline of the rule of law, which, in the case of industrial relations, aimed at constraining the authoritarian force of the economic law, was on the fringe of dissolution in face of the enormous power of class struggle. This concern was also expressed by the liberal economists, such as L.L. Price for instance, who also believed that industrial reform was dependent on moral reform.²⁸⁴ In *Industrial Peace, Advantages, Methods, and Difficulties*, he argued that mutual concession was preferred to authoritative arbitration, and not in the least, the compulsive legislation. It would be a 'very powerful reason' to exclude 'law and lawyers', if there was to be 'any genuine feeling of conciliation as the result of acts of conciliation'.²⁸⁵ From this point of view, the growth of federative organizations would make it difficult for capital and labour to share the sense of 'identity of interests', because their representatives were prone to become circumspect by looking for protection of their sides as their own ends. Under this circumstance, they could not help but agree with the

²⁸³ *Leicester Chronicle and the Leicestershire Mercury*, Sep. 17, 1887

²⁸⁴ *The York Herald*, Sep. 17, 1889

²⁸⁵ L. Price, *Industrial Peace, Advantages, Methods, and Difficulties*, London 1887, pp.37, 42, 70-1

terms ‘on the negative ground of the injury and irritation caused by a strike, rather than on the positive basis of an acknowledged identity of interests’.²⁸⁶ In the process, other members of employers and workers began to show subservient attitudes towards capacities of the negotiating parties, who possessed exclusive information about funds, organizations and trade knowledge. Therefore, the ‘general’ arrangements between the representatives tended to ignore innumerable local and sectional differences, as long as securing peaceful settlements by arbitration and the sliding scales was based upon awards in accordance with uncertain criterion of ‘general state of trade’. This calculation of the average rates would place disastrous pressure of bankrupts upon the employers of small capital, when they needed to pay the same amount with the other large-scale employers. Price believed that the best means to restore the mutual confidence between capital and labour was to create the institutional fabric of the boards of conciliation:²⁸⁷

It would rather be necessary, it appears, to create a number of little boards of conciliation, and to institute a number of minute sliding scales in each district; and this might entail considerable expense. ...And so the advantage of the official experience and influence of the central executive may perhaps on a representative basis be satisfactorily combined with local variety of detail. The difficulty then of instituting a system of conciliation is certainly increased by these circumstances, but is not rendered insuperable.

It was still dubious whether setting up the ‘a number of little boards’ of conciliation as the institutional force was effective to restrain the growth of the rule of the economic law. In *Principles and Methods of Industrial Peace*, published in 1906, A.C. Pigou showed his concern about the increasing economic demands for creating the large corporate bodies, which would end up in breaking moral engagement, creating distrust and generating the

²⁸⁶ Ibid., p.83

²⁸⁷ Ibid., p.105

attitudes of cynical indifference between capital and labour.²⁸⁸ The establishments of the mutual boards between their representatives were certainly useful for raising the standards of morality, but the peaceful settlements would likely to turn out as the incongruent separation between industrial and communal interests.²⁸⁹ Since artificially settled wage rates resulted in placing additional burdens upon production, which was in theory dependent upon quantity of commodity and its price, the extraordinary cost incurred by the 'close corporations' would be the loss of optimum efficiency of the labour market and finally imposed upon communities, which could no longer hope to meet their economic prospects of substantial benefits. While Pigou agreed with the idea that the cultural fabric of society like altruistic and societal manners was produced only by the voluntary institutions including trade unions and employer's federative bodies, he still seemed to believe that they were hardly meaningful for making up the gap between the economic and communal interests, quoting Marshall's observation that the monopoly of labour by trade unions was carried out at the expense of the general community and real wages of workers.²⁹⁰ After examining the way to determine 'fair' wages, agreement process and frameworks of collective bargaining, he began to look into the state intervention as a possible solution to the problem. The focal point was how the compulsory framework of arbitration could deliver effective legal sanctions. Although the extension of authoritative bodies was favourable for ousting unscrupulous employers undercutting healthy industries, he considered that there was a risk of fostering the formation of political cliques, whose monopolistic activities were in the end inimical to

²⁸⁸ A. Pigou, *Principles and Methods of Industrial Peace*, London, 1905, p.23

²⁸⁹ *Ibid.*, pp.31-2

²⁹⁰ *Ibid.*, pp.52, 134-6

the interests of consumers. The compulsory measures were likely to increase cautiousness among employers who were afraid of penalty by not meeting their criterion, and to lead to the fear of growing unemployment. Hence, Pigou made a conclusion that ‘on the whole, it does not appear that “authoritative extension” is a policy worthy of adoption – at all events in a country which has held aloof from authoritative arbitration in general’.²⁹¹

In order to address the economic dilemma of the widening gap between the industrial and communal interests, in which heavier economic costs due to the growth of corporate bodies was burdened upon the public, Pigou suggested that in the case of industrial disputes what was in need was the scheme which compelled capital and labour to submit their differences to the arbitration board without gaining the consent of the other. Since industrial stoppages would necessarily affect the amount of consumption, welfare of life and economic networks, the top priority had to be placed on preservation of industrial peace as the matter of the community as a whole. However, it was obvious that, like the question of tariff reform, any compulsive measures were not soluble, inasmuch as they were inclined to be evaded as much as violated by cunning of both capital and labour and resulted in an increase in a ‘litigious spirit’ evoked by such tendencies of industrial discord.²⁹² For Pigou, securing industrial peace by resorting to the legal remedies or external sanctions would boost their class consciousness and, therefore, the state intervention, whether they were judicial or executive, would become a catalyst for the class partiality:²⁹³

...there is tendency for the evil to spread. Political division is pressed into the lines of class division, and an increasing prominence is given in the thought,

²⁹¹ Ibid., pp.178-81

²⁹² Ibid., pp.184-7,195

²⁹³ Ibid., p.204

both of electors and of their representatives, to sectional as opposed to national interests. ...If the regime of coercion has been inaugurated, not under the joint auspices of employers and employed, but on the independent initiative of men recently defeated upon the field of economic conflict, the probability that these unfortunate results will occur is very great.

In the state of the separation between the moral and economic law, the tripartite relationship between capital, labour and consumers seemed to go through the endless cycle, in which the greater they promoted the producers' interests, the heavier the economic burden imposed upon the public would become. In the case of promoting the latter's interest, what was waiting for was the culminating division between corporate and rank-and-file interests after severe economic competition. Thus, in the age of modern national economy, reliance upon the role of the state to adjust the economic interests between the three economic agents was going to be increased. This chapter saw the intellectual discourse of Millian political economy, which guaranteed liberal pluralism in the voluntary procedure of collective bargaining. Such Christian act was expressed by the rights and duties determined between capital and labour. However, once the productivist principle of co-operation became the ideological basis of the voluntary collective bargaining, the religious discipline of the rule of law was violated as a result of the growth-oriented market principle claiming the precedence of capital and the materialist expansion of national economy. In this framework of co-operative production, Mundella's Protestant sentiment of free labour – the right and liberty of individual workers to be able to purchase their daily loaf to do their service for others – was almost deprived of its *raison d'être* and the humanitarian culture of the reciprocal relationship based upon the rights and duties between capital and labour would be difficult to gain a purchase in the intellectual discourse, especially in the modern discipline of economics.

Chapter 3 Corporation, Trust and Labour

3.1. Decline in Free Trade and Reformism of Historical School

In the mid-nineteenth century the voluntary principle of collective bargaining was the institutional programme aiming at building the bridge of trust in society. At the culmination of Victorian liberalism, it was the rule of law in market economy of free trade, restraining the free operation of impersonal market force and safeguarding individual independence of labour in the communal interests. On this basis, there was the mid-Victorian ideological idea of co-operation, which supported the idea of market equilibrium by the three economic agents – capital, labour and consumers. Their moral synthesis was secured, when reciprocal, religious and economic sentiments were invoked by the public, by which communal interests successfully constrained the ascendancy of utilitarian values. The Victorian Liberals considered that the establishment of the voluntary scheme of collective bargaining was conducive to producers' ethical sense of co-operation and that the voice of consumers acting as public opinion carried out harmonious distribution of wealth inside the commonwealth. As the institutional bulwark of free trade in labour, its voluntary operation was also believed to ensure latter's ethical virtue to receive and provide a fair day's wage for a fair day's work without resorting to intervention by the central authority. This economic subculture of free trade was accomplished by the neutral legal framework of trade unions, which enabled them to bargain with their employers on equal terms – the development of the contractual relationship between capital and labour. The Liberal industrialists acknowledged the cause of trade unionism as valuable for raising the moral standard of working classes,

whereas trade unionists aimed to protect fair conditions of work and to reason out the problem of overproduction. With their increased proclivity for deepening mutual understanding, the voluntary process of collective bargaining facilitated peaceful settlements of industrial disputes and their reciprocal obligations – ‘rights and duties’ between capital and labour – fostered their shared sense of common good within the rule of market economy.

This chapter is going to examine a reformist tradition of economic history in the work of Frederic Maitland, William Cunningham, Langford Price, Herbert Foxwell and William Ashley. It argues that their political economy was designed to advance the concept of economic organisation of labour, in which producers could identify their interests with consumers. In the mid-Victorian period, the liberal virtue of economic organisation of labour was a safeguard of the public spirit in the private sphere. This chapter aims to show that their intellectual acknowledgements of working-class associations corresponded to what John Stuart Mill expected as a base of the civic virtue of individual independence in the mid-nineteenth century. As mentioned in the previous chapter, Mill, as a supporter of religion, considered that the religious diversity was secured in market economy by associational efforts of individuals and his followers depreciated the atomistic doctrine of utilitarian individualism, as they thought that economic rationality was premised on the community-centred proposition of their self-less and altruistic virtues.²⁹⁴ This religion of humanity in the sense of Millian political economy became the ideological buttress of the trade union laws in the 1870s. The voluntary scheme of collective bargaining formed the *esprit de corps* of moral economy, as it served the public good by preservation of unity

²⁹⁴ Lipkes, op.cit.

of the tripartite economic agents – capital, labour and consumers.

However, the institutional problem of trust arose, when its framework experienced a decline in the voluntary market culture of free trade and lost the past credence to its efficacy to reach the public good. The denouement was marked by the increased importance of economic incorporation – endowment of legal personality with a corporate entity, which, as a result, undermined the basis of the neutral state. According to Johnson, the legal framework of corporate capitalism – the legislation of joint-stock company with limited liability – was endorsed, when judicial interpretation in the common law acknowledged the practical significance of the legal personality of corporation. In adopting the principle of limited liability there was a perplexed backdrop of the common law tradition, which he calls ‘inherent uncertainty’ or ‘moral ambiguity’ factored in conferring the general right of incorporation. Johnson’s historical focus upon institutional developments of modern corporate capitalism is predicated upon the premise that the operation of market was neither natural nor neutral and habitually constrained by law and custom. Since the common law tradition gave considerable discretion for judicial interpretation, it was important for him to bring into focus juridical trends to evade judgment of full liability and, in determining its limits, to blur the distinction of legal personality between ‘fictive’ corporation and ‘real’ individuals. This nitty-gritty of Johnson’s historical approach to institutional and legal partiality concludes that in judicial cases of limited liability judges were initially reluctant, but gradually attached to the principle of *caveat-emptor*. In this way, the law permitted remission of individuals from substantial responsibility.²⁹⁵

²⁹⁵ Johnson, *Making the Market*, ch.4

Efflorescence of incorporation occurred around the late nineteenth century, since the rise of labour movement led to a decline in freedom of contract. In need of institutional barrier to protect property, proprietors turned partnerships into the incorporated form of joint-stock companies with general limited liability.²⁹⁶ In face of the rise of corporate culture, Liberal and Conservative scholars took differential approaches to the public interest. Sharing the common intellectual background of Oxford collectivism, which flourished on the influence of T.H. Green's philosophical idea of social organicism, they developed Green's philosophy of public service by way of corporate and positive institutions in divergent ways.²⁹⁷ Their ideological fault-line was conspicuous along their party politics. While the Conservative party strived to gain political legitimacy of tariff reform in promoting the interest of producers, the Liberal party attempted to hold up their position as the ideological vanguard of the interest of consumers, persisting with the stronghold of the principle of free trade. In the light of the public interest, this chapter discloses, visions of historical economists were more careful about defending the pluralist institution by regulating the impersonal force of market economy with the public good. Even though the growth of modern corporate economy was accompanied by the shift to professional or scientific expertise, they believed that the growths of economic organisations would guarantee the collective liberty of working classes in the corporate society, reconciling producers' with consumers' interests in autonomous society.

For linking the idea of historical economists with that of the public interest, it is important to look into the rise and fall of the economic culture of free trade and to understand its

²⁹⁶ Johnson, *op.cit.*, pp.164-5

²⁹⁷ E. Green, *Ideologies of Conservatism, Conservative Political Ideas in the Twentieth Century*, Oxford, 2002, Ch.2

contextual formation of social virtue of trust in Britain. The popular economic principle of free trade became the ideological bastion of civil society after the repeal of the Corn Laws. Its political discourse, which was evolved in association with the political identity of consumers, appealed to the advancement of Britain's distinct civil politics, when it succeeded in undergirding the powerful presence of civic-consumers and calling forth the neutral governance in trade. Thompson has argued that at this juncture the voice of consumers as the deity of positive conception of public opinion formed a liberal consensus, as the verity of classical political economy was overshadowed by the theoretical validity of public opinion. When both positivists and historical economists discounted the idea of utility maximising rationality of the economic orthodoxy, the institutional framework of voluntary collective bargaining was theoretically approved and the power of public opinion, whose voice was equivalent to the consumers' interest, was going to adjudicate industrial disputes.²⁹⁸ Thus, the Liberal programme to forge the link of trust between capital, labour and consumers was reckoned to secure the public interest, when its voluntary procedure of collective bargaining enabled a community of consumers to enforce producers to correspond to their demands.

As to the decline in the voluntary market culture of free trade, Trentmann has shown that the economic policy of free trade gave up in pursuing the Cosmopolitan vision of Cobdenism and opted for more feasible terms of free imports in face of the international growth of protectionism. Nonetheless, free trade politics in Britain, in which civic-consumers were identified with public morality and their interests were sacred, persisted and re-flourished in the Edwardian period. They denounced monopolistic control of

²⁹⁸ Thompson, *op.cit.*, ch.4

producers as selfish materialism as much as moral and public deterioration. The concept of the neutral state was finally retrograded, when the government initiated the national control of consumption from the period of the First World War by establishing the Ministry of Food and later the Consumers' Council.²⁹⁹ In relation to the downturn of the liberal consensus, Thompson's study of the intellectual conception of the rational public of consumers places a strong focus upon Marshall's fear for fractured unity of the public in confrontation with the intrusion of materialism. As a marginalist economist, Marshall did not circumvent the political power of public opinion as the yoke of ultimate indeterminacy in the market principle. In his intellectual speculation to overcome a difficult condition of imperfect competition, he signified utility of consumers as an economic regulator, which endorsed the importance of trade unions as an apparatus in reflection of the direct influence of public opinion.³⁰⁰

Historical economists took a different path from the empowerment of the utilitarian creed of consumers. Public opinion was the positive conception, which, with its holistic and inclusive aptitude, embraced even universalistic and individualist neo-classicism. In the departure from the voluntary market culture of free trade, historical economists also evaluated the growing influence of public opinion, but showed different epistemology from neo-classicism, which saw the sacred property of labour as 'the ghost of custom' for encapsulating moral constraints of the public in the private sphere. They believed in the mutual and reciprocal relationship of rights and duties between producers – capital and labour – as the means to curb segregation of production from the rational voice of

²⁹⁹ F. Trentmann, *Free Trade Nation, Commerce, Consumption, and Civil Society in Modern Britain*, Oxford, 2008, pp.57-65, 192-207

³⁰⁰ Thompson, *op.cit.*, ch.4

consumers. Koot's general overview has shown that in contrast to hypothetical nature of deductive theories the inductive reasoning of historical economists was inclined to distinguish practical dimensions of the national and communal interests.³⁰¹ Hence, they thought that the idea of public opinion would develop a role of custom of producers into the neo-mercantilist framework for economic coordination. Rather than commending either the local-based framework of collective bargaining or growth-oriented models of co-operative production and joint-stock companies of limited liability, their outspoken advocacy of protectionism championed economic organisations of labour for reconciliation of market economy with the public good in the sense of securing market equilibrium between production and consumption not by the force of authority, but by the autonomy of corporate bodies under the guidance of public opinion in the crisis of voluntary market culture of free trade.

However, as Trentmann points to the strong adherence to free trade politics in the Edwardian period as liberals' moral doctrine, what their ideological clash with the Conservative political economy of tariff reform brought to the fore was unexpected revelation of the precarious and ambiguous legislative status of trade unions in light of incorporation of labour. As mentioned in the last chapter, as soon as the trade union laws in the 1870s secured unions' rights to carry out free collective bargaining with their employers, there were conflictual demands enunciated even by some fractions of trade unionists for revamping the conventional practice of trade unions and moulding it into co-operative production or joint-stock company of limited liability as the ideal means of

³⁰¹ G. Koot, *English Historical Economics, 1870-1926, The rise of Economic History and Neomercantilism*, Cambridge, 1998, *passim*. See E. Green, *The Crisis of Conservatism, The politics, economics and ideology of the British Conservative party, 1880-1914*, London, 1995, ch.4

co-operation. In this discourse, the conventional programmes of trade unionism – halting overproduction and limiting the number of apprenticeship – were seen as deleterious to the public interest, since these were antiquated measures, which were irrational and monopolistic enough to limit the accumulation of material wealth for the improvement of the condition of labour. The old liberal premise of the locally- and communally-based collective bargaining was not seen to achieve the public good. This increasing propensity of producers to adopt the capital-centred rhetoric of co-operation was accompanied by the growths of up-to-date measures of co-operation in practice such as sliding scales and joint boards.³⁰² In front of the corporate turn, the liberal watchword of free trade in labour lost its legitimacy to reconcile market economy with communal interests.

Rather, a democratic call for legal and judicial equity of incorporation into joint-stock companies with limited liability would end up in stressing a drawback of a double-edged proposition of the Trade Union Act of 1871. As mentioned in previous chapters, collective action of workmen had been unlawful, as it was seen to be in restraint of trade – an obstacle to economic activities of individuals. When trade unions won their legal recognition, they gained legitimacy not only as a providential institution for guidance of moral order, but also as institutional apparatus to assure working class right to higggle in the economic market. The voluntary solution under the legislative neutrality was a landing point of such conflicting capacities of trade unionism – co-operative framework and economic liberty of individuals. However, this bilateral proposition as the moral and

³⁰² T. Griffiths, *The Lancashire Working Classes c.1880-1930s*, Oxford, 2001, ch.5. D. Matthews, 'The British Experience of Profit-Sharing', *Economic History Review*, Vol.42, 1989, pp.439-64. J. Melling, 'Industrial Strife and Business Welfare Philosophy: the Case of the South Metropolitan Gas Company From the 1880s To the War', *Business History*, vol.21, 1979, pp.163-79. E. Bristow, 'Profit-Sharing, Socialism and Labour Unrest', in Brown (ed.), *Essays in Anti-Labour History*, pp.262-289

economic institutions developed into a theoretical paradox in giving the incorporated status to labour. Under the 1871 act, the legal status of trade unions avoided full incorporation as commercial bodies, which required strict conformity to the public regulations and the extension of the Friendly Society Act was applied. If demands for incorporated limited liability had been made more powerful, positions of labour could become less stable, since the corporate officialdom could not take into consideration the voluntary market culture of free trade, in which civic culture of working class radicalism cultivated the social virtue of trust in the voluntary framework of collective bargaining.

Although Johnson has presumed that the rise of labour movement triggered the transition of partnerships to joint-stock companies with limited liability, the freedom of contract, by which individual workers could secure their rights to exercise freedom to exchange their property of labour, was in the liberal tradition grounded on the voluntary framework of collective bargaining. When the voluntary solution lost its self-governing function in free trade economy, criticism was gradually posed upon the legal status of trade unions. After the Taff-Vale judgment of 1901 enunciated adverse verdict against trade unions, which some trade unionists showed a support, the bilateral conceptions of trade unions were no longer esteemed to be responsible for the public interest in the corporate capitalism.³⁰³ Their conventional exercise of freedom of contract, which had been the buttress of the social virtue of trust in the voluntary market culture of free trade, needed a reform adjusting to the emerging condition.

Trade unions were successful in gaining the charters of the 1870s by rectification of the

³⁰³ See comments and opinions of James Sexton, Richard Bell, Thomas Burt and Clem Edwards in K. Brown, 'Trade Unions and the Law', in C. Wrigley (ed.), *A History of British Industrial Relations 1875-1914*, Brighton, 1982, pp.124-5

iniquitous legal status of labour. Certainly, the subversion of ‘feudal’ laws, such as the combination acts, master and servant acts and the common law conspiracy theory, had an equivalent meaning of shaping the free labour market in pursuit of legal and institutional equity. In the backdrop of the people’s call for the state as an even-handed guarantor, there had always been an underlying current of the liberal movement, which had demanded in history the reform of inequality, immorality and monopolies against the ancient regime and advanced the principle of free trade as the mainstay of the *laissez-faire* state after the French Revolution.³⁰⁴ This rallying cry for the *laissez-faire* economy had almost a synonymous meaning with the liberation of religion from the state.³⁰⁵ The Non-conformist demands for voluntary associations of labour and their co-operative framework with capital had meanings equivalent to achievement of working-class independence as much as liberal institutions for individual rights and liberty.³⁰⁶ Such triumphant mood of Nonconformist liberty – demands for individual rights and equality before the law – was, according to Hill, possible to harken back to the period of the Civil War in the late seventeenth century. Anglo-Saxon inheritance of the common law tradition and local democracy had been the long-lasting bulwark of English liberty after the Norman Conquest.³⁰⁷

However, it was also an ineluctable fact that the freedom of contract was indebted not only to the legal and institutional equity, but to the function of economic organisation of

³⁰⁴ M. Daunt, *State and Market in Victorian Britain*, Suffolk, 2008, pp.5-8

³⁰⁵ Biagini & Reid (eds.), op.cit. *passim*. E. Biagini, ‘Radicalism and Liberty’ in Mandler (ed.), op.cit., p.103. F. Trentmann, ‘Free Trade and tariff reform’, in O’Brien & Winch, op.cit. K. D. Brown, ‘Non-Conformity and the British Labour Movement: A Case study’, *Journal of Social History*, vol.8, 1975, Harrison & Hollis, op.cit.

³⁰⁶ Brown, ‘Nonconformity and trade unionism’

³⁰⁷ C. Hill, ‘The Norman Yoke’, in J. Saville (ed.), op.cit., p.57

labour. The working-class right to exchange their property in free trade was granted as a result of the rise of trade union movement in the mid-nineteenth century. The legal recognition of trade unions was grounded upon liberals' endorsement of people's associational efforts as the means of a transmitter of morality as much as a safeguard of religious diversity in market economy. As Herbert Spencer regarded freedom of contract in industrial societies as a main vehicle of progress from the fiscal military state, the intellectual discourse of political economy had always endorsed free trade in labour.³⁰⁸ Even Robert Owen and Thomas Chalmers, taking approaches of polar opposites to market economy, believed that political economy would help to develop the contractual relationship between capital and labour. Both Joseph Hume and J.R. McCulloch, whose political economy was denounced by E.P. Thompson as wirepullers of freedom of capital, gave support to the early working-class radicals such as Francis Place in the repeal of the Combination Acts in the 1820s.³⁰⁹ In the case of the trade union charters in the 1870s, Mill and his circle provided scientific and historicist legitimacy of the trade union programme. In this way, ideas and practices of political economy, which Walter Bagehot called a basis of 'the common sense of the nation', had always grounded the pathway to freedom of contract.³¹⁰ This chapter shows that historical economists played this traditional role of 'friends of labour', when their political economy of tariff reform sought to secure the working class right of freedom of contract by rebuilding the pluralist institution of economic organisation of labour to restrain market economy in face of the rise of modern corporate capitalism.

³⁰⁸ Searle, op.cit., p.34

³⁰⁹ Thompson, *The Making of the Working Class*, p.517

³¹⁰ Trentmann & Daunton (eds.), op.cit., p.3

The Conservative party was identified by Ewen Green as the party of ‘property, Empire and the Church’ in the late nineteenth century. It strived to construct their own political programme in face of the crisis of free trade and sought to forge their identity as a party unifying propertied interests. Seeing New Liberal challenge of ‘class’ and ‘sectional’ politics as danger against its Anglican stronghold, they did not favour alteration of the power balance in the society. Hence, the tariff reform became their mainstay as ‘economics of political integration’: imperial preference was offered to increase benefits of the empire and to entice the new propertyless electorate. Conservative protectionism, as a revenue device, aimed to foster the social harmony by economic unification – the interest of ‘*res publica*’ had to be given priority to economic rationality of individuals, because, due to protectionist counterparts in the continent, the cosmopolitan order of free trade was likely to render domestic industries less profitable and hamper effective distribution of resources inside the nation.³¹¹ The Conservative political economists like Cunningham, Foxwell, Price and Ashley strived to redefine producers’ rights and duties in their own manners. By examining their appreciation of the liberal conception of public opinion in instituting economic organisation of labour, the chapter shows that their economic coordination was distinguished from the totalitarian control of production by the central government. Rather, their primary aim was to resuscitate missing liberal virtue of trust in a corporate form. Nonetheless, to understand pathology of trust in Britain after the common law’s embrace of the incorporated limited liability as the general right, it is important first to shed a light upon the making of trust in England and its contradictory characteristic to the modern corporate system by looking into Frederic Maitland’s history

³¹¹ Green, op.cit.

about institutional formation of trust and its relation with the common law tradition.

3.2 Frederic Maitland and Making of English Trust

Frederic Maitland examined the legal system of England on the institutional formation of trust and corporation. Maitland was a legal historian, who with Cunningham, sought to reform and protect the Historical Tripos at Cambridge in confrontation with the intrusion of Marshallian economics.³¹² His chief concern was to open up a debate about meanings of legal personality between ‘fictitious’ corporation and ‘real’ individuals. It developed into his historical approach to the very essence of incorporation in England, whose distinct characteristic was later pertinent to the precarious legal status of trade unions. In an essay, ‘Trust and Corporation’, published in 1904, he dug into the historical origins of culture and law of trust, which, with its highly contextual expediency, had been embodied by institutions prescribing the relations between beneficiaries and trustees. The legal institution of trust, all in all, represented ‘all the generality, all the elasticity of Contract’ and was cultivated out of ‘certain requirements of English land law’. The growth of trust as trading corporative bodies in the U.S. was a form of ‘its last exploit’.³¹³

The concept of trust was developed in the English law, which was the comprehensive judicial system with no segmental separation between the private and public law. Conventionally, there had been differential legal reparations applied to immovable and movable property due to customs and rules rooted in the rigorous primogeniture and the

³¹² Koot, op.cit., pp.148-9

³¹³ F. Maitland, ‘Trust and Corporation’, in D. Runciman & M. Ryan (eds.), *State, Trust and Corporation*, Cambridge, 2003, pp.75-6

jurisdictional authority of the Church. Movable or personal property were not treated as subsistent 'real property' until the mid-nineteenth century, so the breach of trust in this case was not classified into unlawful possession, but into application of personal action for compensation. This distinction between immovables and movables was dwelled on the idea of trust – the right to hold property in trust – as a real right, not contractual, so as 'a kind of property'.³¹⁴ Hence, the right of trustees in England had a sense close to 'equity' rather than stipulative conditions of property right.

The conventional procedure of granting trust was developed informally, when Englishman's atonement for his sinful soul was evinced by his will of conveyance of his land to his daughters and younger sons. The trustees were to hold it 'to his [the landowner's] use'. The concept of 'joint ownership', derived from German's *Gesamthandschaft*, helped trustees to fend off direct intervention from the lord: trustees by accrescence of a new trustee could deter the lord from claiming his right to escheat the property. In as early as the fourteenth century against the claim of the king the old courts of common law decided to 'look the other way', since the practice of trust was already prevalent among lawyers. The court of chancery, a 'reserve of extraordinary justice' for the king, took action for his interest, but, apart from scandalous cases of dishonesty, it only enforced trustees to comply with the duty of trust. Hence, 'if the Court of Chancery saved the Trust, the Trust saved the Court of Chancery'.³¹⁵

The beneficiary's right was limited to an incorporeal thing – an estate 'not in the land, but in "the use"', since the trustee had a 'true ownership'. On occasion of inheritance, the

³¹⁴ Ibid., pp.77-83

³¹⁵ Ibid., p.84

‘notice’ was given in trust for the beneficiary and it was a problem of trustee’s ‘conscience’ to undertake the ownership: his ‘conscience’ was the ‘basis of the equitable jurisdiction’. Hence a collective entity such as a corporation was not a recipient of trust, since it was not regarded as having ‘conscience’. The concepts like ‘equitable ownership’ or ‘ownership in equity’ were developed for the expediency of the beneficiary, as trustees held the legal ownership.³¹⁶ The trust relationship was not based on obligatory or private contracts, in which each was bound to respect mutual rights. In this way from the landed aristocracy to newly prosperous commercial classes, well-to-do people enjoyed benefits of the trust in the service of equity. Hence, the ‘testamentary freedom’ reached its culmination to the extent that the trust became most ‘commonest institutes of English law’ and almost equivalent to the contract. Short of German *Gemeinschaft*, community of ownership, the trust was flexible concept which, for instance, in auxiliary extended to one’s wife after marriage as ‘mistress in equity’ and in this manner gave Englishmen the ‘liberty of action and experimentation’ in terms of creating institutions and foundations.³¹⁷

Hereafter, the juridical problem of personification came to the fore for an autonomous institution. At one time in the medieval age the concept of ‘corporation sole’ was applied, but lawyers were disposed to attribute the ownership of land to a natural man and not to unsubstantial speculation of personification.³¹⁸ For this purpose, a concept of ‘charity’ was developed into charitable trusts in the early seventeenth century. If there was a

³¹⁶ For movable property, the chancery adopted the idea of ‘trust fund’, which was investable like coins, shares and Consols. All these belonged ‘in equity’ to beneficiaries. (ibid., pp.90-5)

³¹⁷ ibid., p.97

³¹⁸ For Maitland’s speculation of ‘corporation sole’, see F. Maitland, ‘The Corporation Sole’, ‘The Crown as Corporation’, ‘The Unincorporate Body’, ‘Moral Personality and Legal Personality’, in Runciman & Ryan (eds.) *State, Trust and Corporation*.

charitable cause, *Zweck*, which was reasonably beneficial to the public, a ‘trust for a *Zweck*’ solved the problem of personification of ownership and made it possible for an owner to pass ‘special purpose funds’, *Zweckvermögen*, to an indefinite mass of individuals. Since there was no judicial theory by which the state could be the last proprietor of all charitable trusts, ‘the interests of the trust would be fully represented by the trustees’ in the interests of the ‘richest and most powerful class of Englishmen’.³¹⁹

As far as religious liberty was concerned, religious societies were endowed with trust by the state-church. This meant that since incorporation was equivalent to access to ‘privilege and exceptional favour’ in England, the charitable trusts were applied to them. The state did not see these religious societies as corporations, but ‘natural persons’ as trustees, who were ‘more conscientious when they are doing acts in their own names’.³²⁰ Hence, Maitland argued that the element of institution, beside that of co-operation [*Genossenschaft*], was important for the notion of ‘charity’, as the charitable trusts appeared to be ‘their various ideals of ecclesiastical polity under the shadow of our trusts’.³²¹ There was a strong thought of a ‘jurisdiction’ of *Genossenschaft* among Englishmen, so in case of dishonesty against *Zweck* any sorts of unincorporated *Genossenschaft* – not only religious bodies, but clubs like Inns of Court, Lloyd’s Coffee House and the London Stock Exchange – were not accused of ‘question about personality’, but protected behind the ‘trustee wall’ as private societies. If there was ‘no’ charity, a ‘purely individualist theory’ was applied to private societies insomuch as the trust ‘must

³¹⁹ Maitland, ‘Trust and Corporation’, pp.99-101

³²⁰ *Ibid.*, pp101-3

³²¹ *Ibid.*, p.104

be a trust for persons’.³²²

Maitland distinguished this English type of unincorporated societies from German *Gesellschaften* [partnership], since English clubs had closer sense to ‘society’ than the relations between persons for the business profit. The legal incapability to give fictitious personality restrained clubs from assuming corporations with limited liability: they had individuals with unlimited liability. One exceptional case was, Maitland points out, early twentieth century trade unions, whose organised action had to be ‘paid for out of the property held by its trustees’.³²³ Despite this inaugural custom, basically, members of private clubs were not subject to corporation law, since there was no legal personality of clubs:³²⁴

The natural inclination of the members of an English club would, so I think, be to treat the case exactly as if it were a case of corporate liability. It has often struck me that morally there is most personality where legally there is none. A man thinks of his club as a living being, honourable as well as honest, while the joint-stock company is only a sort of machine into which he puts money out of which he draws dividends.

Even after the Companies Acts lowered a bar of incorporation into joint-stock companies, the unlimited liability of their members had been adhered to by the courts as half-measures. The kernel of the trust wall could suspend personal liability from mischief, but the joint-stock framework made it difficult for directors of companies to make a contract with individuals without limited liability.³²⁵ Large ‘unincorporated’ joint-stock

³²² Ibid., p.110

³²³ Ibid., pp.113-4

³²⁴ Corporations had to pay ‘for almost every kind of wrong that one man can do to another’. In this case the *Fiktionstheorie* was applied and a master (persona ficta) ‘pays for the act of his servant or a principal for the act of an agent’. (ibid., p.114)

³²⁵ Ibid., p.120

companies were going to be registered under the 1862 act in fear of losing some of its liberty and autonomy.

In contrast to the English tradition, whose endowment of trust was inclined to curb the growth of large-scale joint-stock companies, Maitland points to the institutional growth of trust in the U.S., which admitted unincorporated joint-stock companies to flourish. Since American corporations had faced opportunities to cause their immense fear against the suppressive state, it was freedom of contract for trustees and shareholders to proclaim trust without binding each other for personal liability – with limited liability. This distinctiveness accompanied the institutional form of trust acknowledging large-scale unincorporated economic enterprises. Once the U.S. state decided to relax its posture against corporations, these economic bodies by trust began to assume incorporated capitalistic combinations, which made Englishmen to think as if ‘Germany is full of “trusts”’.³²⁶ On the other hand, the institutional relations between trusts and corporations were so old in England that the institutional growth of trust based on charity resulted in providing the English countries with their strong characteristics of quasi-corporate forms of municipal governance from the period of Henry VIII, which later made reformers see with repugnance as ‘trusts of a public nature’. The English tradition of the common law, with no severance between the private and public law, ratified the existence of unincorporated bodies. It was not until 1889 that the law expanded the interpretation of ‘person’ by adding the act to the statute book:³²⁷

In this Act and in every Act passed after the commencement of this Act the expression “person” shall, unless the contrary intention appears, include any body of persons corporate or unincorporate.

³²⁶ Ibid., p.122

³²⁷ Ibid., p.126

According to Maitland, the institutional development of trust in England was undergirded by the common law tradition, whose jurisdiction was based on trustee's 'conscience'. In regard with autonomous institutions, the endowment of trust took a form of charitable trusts and if no charity was exercised, personal liability was applied as natural persons. Freedom of religion was, thus, warranted by according the status of charitable trusts to non-conformist sects in the late seventeenth century. This was also the case of the nineteenth-century trade unions. The trade union charters of the 1870s endowed them with institutional structure of charitable trusts, when it proposed the voluntary scheme by expanding the Friendly Societies Act and remitting corporate responsibility. However, the historical watershed was marked, when the common law tradition, which had been the juridical bulwark of the voluntary market culture of free trade, embraced the law admitting a juristic remit to grant legal personality to fictitious corporations, which broadened interpretation of legal personality to regard the latter as a 'real' person.³²⁸ From this time on, the English custom of the common law internalized a juridical dilemma between individualism and corporatism. The salient point is that the traditional concept of trust in England, which had been obligated with unlimited liability, met a serious challenge from the modern corporate capitalism, in which the incorporated form of joint-stock companies was inclined to yield to demands for the principle of limited liability. If the law called for incorporation of private societies on behalf of business profits, the customary proceedings of trust were likely to falter, since the distinction between 'private'

³²⁸ 'Although writers of legal manuals quickly spotted the opportunity provided by the 1856 (Joint-Stock Companies) Act for sole proprietors to relieve themselves of a broad range of legal, financial and moral responsibilities, the absolute legal position remained ambiguous until Salomon's House of Lords appeal in 1896' (Johnson, op.cit., p.164)

and 'public' bodies was at any rate eradicated in law.

The institutional convention of trust in England was the bastion of liberal conscience, which consisted in the principle of unlimited liability applied to the unincorporated organisations. The voluntary market culture of free trade was owed to this practice, as trade unions were precluded from prosecution as a corporate body by shielding their funds from penalties of illegal actions of their members. However, this liberal consensus on trust in free collective bargaining was gradually eroded before apprehension over trade unions' legal status reached a peak in the Taff-Vale judgment of 1901. Its prelude got under way, when problems of poverty and unemployment gave rise to public discussion after the period of economic depression in the 1870s. The tariff reform movement was triggered by sugar industries, which were outcompeted by their protected continent rivals. Social pressure for deviation from the orthodoxy of free trade was increased, as the Fair Trade League denounced the free trade politics under the aegis of the Tory party. The labour movement from the left also called for the central regulation. In association with the Social Democratic Federation (SDF), the rise of new unionism opened up class-based politics and sharpened antagonism with old unionism.³²⁹ While both old and new unions aspired to take control over production, their differences lay in approaches to the labour market and the latter's legislative measures such as the eight-hour bill led to sectoral conflicts.³³⁰ From Joseph Chamberlain's deflection from the Liberal Party to Keir Hardie's establishment of the Independent Labour Party (ILP), a new tide of labour

³²⁹ Clegg, Fox & Thompson, op.cit.,

³³⁰ Reid, 'The Division of Labour and Politics in Britain, 1880-1920', pp.150-58. Hobsbawm admitted free trade orientation of trade unions and a smaller role played by socialists. (E. Hobsbawm, "'New Unionism' Reconsidered', in Mommensen & Husung, *The Development of Trade Unionism*, pp.13-22)

politics marked a shift in their demand for liberty, which deflected from the conventional practice of trust as much as from the voluntary market culture of free trade.

The traditional presumption of English liberty – the common law and local democracy – remained to be the mainstay of the TUC’s pro-liberal stance.³³¹ Thane has shown that trade unions were supposed to be an aid for individual independence and formed a progressive force with other radicals and socialists on common welfare programmes in local and municipal collective governance.³³² However, while the TUC, as the main platform of labour politics, clung to the *laissez-faire* principle in pursuit of neutral governance, it could not circumvent centripetal forces of trade unions. The growths of the national and federative bodies and industrial-wide framework of collective bargaining dwindled trade councils and their local and municipal influence, since local affairs were no longer discussed in local boards, but in the central joint conference by officialdom composed of delegates of capital and labour. Its federative business administered national funds and took the place of local branches.³³³ The legal status of trade unions was called into question, because its immunity from corporate responsibility was increasingly construed as ‘privileged’ as the growing distrust was manifested for the economic orthodoxy of free trade.

Juridical counteraction was galvanized. A war-time regulation of the General Order of 1883 made it possible to charge a penalty on unincorporated institutions, applying

³³¹ K. Brown, *John Burns*, London, 1977 for John Burns’ pro-liberal remarks made against both Hyndman and Hardie. The orthodoxy of Burns emphasized the importance of the co-partnership with the Liberal party for the independence of working classes.

³³² P. Thane, ‘The Working Class and State “Welfare” in Britain, 1880-1914’, *Historical Journal*, vol. 27, 1984 and ‘Labour and local politics: radicalism, democracy and social reform, 1880-1914’, in Biagini and Reid, op.cit., pp.244-53

³³³ Clegg, Fox, Thompson, op.cit., pp.288-9. For more detailed study on the developments of trade unions, see, Reid, *United We Stand*, esp., pp.159-240

liability of ‘representative action’ to individuals. The Royal Commission on Labour in 1894 discussed whether it was feasible or not that full rights and obligations of corporation were appropriate for the legally abided collective bargaining.³³⁴ From the mid-1890s trade unions experienced a judicial backlash under the influence of the Liberty and Property Defence League. It aimed to protect ‘free labour’ of blacklegs by restricting coercive picketing of trade unions.³³⁵ The case of *Temperton v. Russell* broke into unions’ privilege, as the court applied the ‘representative character’ to union officers. In the cases like the *Lyons v. Wilkins* and *Charnock v. Court* trade unionists were charged for an aggressive picketing. These waves of allegations against trade unions undermined the voluntary practice of collective bargaining and diminished its original prospect.

The most striking case was the Taff-Vale judgment in 1901. A sanction of corporate liability was imposed on the Amalgamated Society of Railway Servants (ASRS) for tort. At the peak of the Boer War, the Taff-Vale line was a vital link between steam coal collieries and ports of seaborne logistics supplying resources to South Africa. After Ammon Beasley, the manager of the railway, placed hardline and cost-cutting pressure on trade unions, the ASRS launched a strike, in which the Board of Trade intervened and terminated. In a lawsuit, Beasley demanded an injunction reversing the conventional accord on the legal status of trade unions. During a hearing, Lord Halsbury re-implemented the procedure of the court of equity, which used to supplement the common law until the 1873 Judicature Act coalesced the two juridical traditions, setting up the single

³³⁴ H. Pelling, *Popular Politics and Society in Late Victorian Britain*, London, 1979 (first pub., 1968). Clegg, Fox & Thompson, op.cit., pp.175-6, p.265

³³⁵ K. Brown ‘The Anti-Socialist Union, 1908-49’ and N. Seldon, ‘Laissez-Faire as Dogma: The Liberty and Property Defence League, 1882-1914, in Brown (ed.), *Essays in Anti-Labour History*

supreme court. In prosecution of union representatives, civil conspiracy of representative action was applied to trade unions and full corporate responsibility was imposed on their collective funds. In consequence, they were placed under a constant risk of civil suits.³³⁶ Such judicial setback was furthered by cases afterwards such as *Quinn v. Leathem, Giblan v. National Amalgamated Labourers' Union* and *Glamorgan v. Denaby*. Beveridge, the Liberal Lawyer, remarked in the first case that the adverse trend almost reached 'a fundamental denial of trade unionism'.³³⁷

In face of judicial backlash, the TUC strived to maintain the orthodoxy of full-scale voluntarism. However, their penchant for unions' unincorporated status was not seen as favourable even by the liberal sympathizers of trade unions like Asquith, Haldane, Sydney Webb and John Ludlow. All of them believed that a new legal status of corporate capacity was necessary for trade unions. It was important for some trade unionists, like Bell, Pickard, Burt and Sexton to achieve the legislative incorporation as a useful means to win employers' recognition. Nonetheless, they finally turned to support the voluntary politics of the TUC, once grasping the scale of damage imposed on union activity through penal fines.³³⁸ Ben Tillett's proposal for introducing the system of compulsory arbitration was opposed by trade unions' strong resistance against the 'judge-made law'.³³⁹ Public opinion was sympathetic to the cause of the TUC. It was striking for the public that the increased role of the government from the 1890s overlooked their right to be consulted. Thompson has argued that such supportive attitude of public opinion enabled a swift

³³⁶ N. McCord, 'Taff-Vale Revisited', *History*, vol.78, 1993

³³⁷ J. Thompson, 'The Genesis of the 1906 Trades Disputes Act: Liberalism, Trade Unions, and the Law', *Twentieth Century British History*, vol.9, 1998 p.179

³³⁸ Clegg, Fox & Thompson, op.cit., pp.316-25

³³⁹ Pelling, op.cit., pp.74-81

passage of the Trade Disputes Bill in 1906. The state intervention was seen as assertion of moral authority and restoration of the total immunity secured ‘the right of combination ...in the interests of the community’. Therefore, radicals insisted labour’s right, which was grounded on the liberal principle of equality before the law, and denounced the ‘judge-made law’ as the agency of ruling capitalists. They had a strong faith in public opinion, which ‘could perform the requisite regulatory functions in a fairer, more efficient, and more democratic fashion’.³⁴⁰

The 1906 Trade Disputes Act brought back the juridical condition of trade unions before the Taff-Vale judgment, guaranteeing trade union’s rights of peaceful picketing and immunity from civil actions for conspiracy. In maintaining the unincorporated legal status of trade unions, this restoration of full voluntarism underlined the institutional practice of trust in the common law tradition. However, this liberal triumph did not mean successful recovery from the demise of the liberal consensus. In the circumstance of increased distrust for the voluntary market culture of free trade especially after the rise of new unionism, the institutional convention based on the individualist principle of unlimited liability was no longer satisfactory to form a trustful relationship between officialdom and working classes. The official rationales of the voluntary scheme of collective bargaining in the 1870s – transmission of moral order and the principle of political economy to voluntary associations – were not validated as the safeguard of the public interest. As Trentmann has pointed out, the unilateral operation of free trade was restricted by the influx of foreign products protected by tariffs, subsidies and new forms of capital organisations like trusts and cartels. Imports of sweated and dumped products resulted in

³⁴⁰ Thompson, *op.cit.*, pp.178-90

making division of interest between producers and consumers.³⁴¹ With the growth of New Liberal politics, there were increased demands from producers for legislative regulation of production. The Liberal party did not adhere to the neutral principle, when Lloyd George's liberal budget indicated their commitment to a crusade against unproductive class by its policy of land reform and legislative attempts of 'servile' state. A statist faction of the labour left, as one strand of the progressive alliance, sought to repeal private ownership as the means to control monopolies before the first world war. They believed that working class independence was achieved by and an outcome of nationalisation of railways and mines and central control of wage rates and working conditions.³⁴² There was less proclivity for resorting to the voluntary solution than before the 1906 act with the growing suspicion about self-governing function of free trade. In this progress of epistemological discrepancy between the public predilection for free trade and the corporate turn in the market economy, historical economists put forward their perspectives, which aimed to resettle an institutional practice of trust and form a consensus between producers and consumers.

3.3. William Cunningham and Trust

In face of the fact that the voluntary framework of collective bargaining was no longer a liberal safeguard of the public interest, historical economists redefined rights and duties of producers in modern corporate capitalism. This attempt involved a challenge to the mid-Victorian concept of public opinion in the expectation of its more broadened role in

³⁴¹ F. Trentmann, 'Wealth versus Welfare: the British Left between Free Trade and National Political Economy before the First World War', *Historical Research*, vol.70, 1997

³⁴² Tanner, op.cit., pp.23-78, esp., pp.51-78

seeking equilibrium between producers and consumers. Maitland gave an emphasis on 'private' societies in England as source of self-governance and distinguished them from incorporated bodies of German Kartell, which was based on the obligatory relations with the German state. However, the problem of trust arose in England, when there was difficulty in preserving 'morality' of trust under the banner of free trade. As one of representative historical economists, William Cunningham, a vigorous clergyman, showed his concern about degradation of commercial morality and elaborated his organicist and corporate framework of neo-mercantilism for the purpose of regulating unbridled progress of powerful private societies. Its competence to meet the public interest was dependent on the force of public opinion. Cunningham's disparagement of individualism as the doctrine of dissenters led to his disdain of universal attributes of the abstract science. The latter's shift in evaluation of utility caused a trouble in the English tradition of good governance. Hence, for Cunningham, it was not the neo-classical economic science but public opinion, under whose guidance state intervention was called for the common weal, which was essential for cultivating personal attitudes to social duties.

Cunningham insisted importance of the guild society and their associational rule in trade. While Marshall saw it as sacrificing the public interest leading to sectarianism, Cunningham, in his three volume work, *The Growth of Industry and Commerce*, argued that it was a traditional duty of the guild society of craftsmen to regulate industry and commerce so as to leave 'comparatively little room for fluctuations'. This was one of 'common religious duties' of most industrial and commercial institutions in the medieval period and their disintegration meant losing checking institutions, which opened up greater opportunities for capital speculation. Cunningham saw that the growth of

capitalist system influenced commercial morality, because after the breach of medieval regulations induction of economic fluctuation provoked a situation, where what was fair and just in terms of wage rates and price was no longer determined under control of personal relations between producers and consumers, but by free competition. There was no moral compulsion imposed by either party in the process of exchange and owning purchasing power became the only means to saturate the desire of wealth.³⁴³

Cunningham proceeded in a dialectic manner of rise and fall of industrial order and reached a conclusion that state intervention in private interests was the only means to control economy for the public good after the breakdown of guild society.³⁴⁴ The mercantile system implemented commercial policies and individual enterprises were liable to check evils of overproduction and over speculation – removal of causes of depression and fluctuation, which finally achieved ‘well-ordered’ trade.³⁴⁵ Since this tide was reversed after the publication of Adam Smith’s *The Wealth of Nations* in 1776, Cunningham’s distrust in the economic orthodoxy was significant. In particular, he showed a grave concern about an outstanding role of the *laissez-faire* economy separating economic from political arena: by this means Smith and classical economists provided capitalists with ‘greater freedom from restriction of any kind’ in the name of economic science.³⁴⁶ As a result, the advancement of free trade eroded the mercantile fortress of well-ordered trade of the last century.

³⁴³ W. Cunningham, *The Growth of Industry and Commerce – During the Early and Middle Ages*, Cambridge, 1890, pp.314-5, 406, 406-12, 453-5. Cunningham pointed out three important roles which the craft guilds had played: police control over towns, sustenance of welfare of the public and protection of fair conditions in trade.

³⁴⁴ W. Cunningham, *The Growth of Industry and Commerce in Modern Times, vol.1*, Cambridge, 1903, p.16

³⁴⁵ *Ibid.*, pp.221-3

³⁴⁶ *Ibid.*, p.608

With his confidence in the humanitarian tradition of Toryism, Cunningham disavowed the theory of classical economics in particular for its flaw in the idea of ‘personal welfare of individuals’, which was imperative ‘for the continued maintenance of sound national life’.³⁴⁷ John Stuart Mill’s ‘On the Probable Futurity of the Working Class’ compensated partially this ideological downturn, but did not offset its defect. In consideration of human welfare, socialism gave rise to the state intervention, but Cunningham distinguished temporary and worldly welfare of materialism from appeals for idealism of religion: he believed that in order to comprehend the *sine qua non* of individual welfare, the most important point was not individuals’ material and physical conditions, but their ‘political wisdom’ with the sense of common weal, which would refrain individuals from misusing the ‘well-being of the community as a whole’. It was obvious for him that the latter was essential for fostering ‘personal attitude towards social duty’.³⁴⁸

On the basis of Cunningham’s idealist belief in religion as the means to arouse the public spirit, there was his empathy with Thomas Aquinas’ theological treatise of the eternal will of God – trinity of natural, human and divine law.³⁴⁹ In *Politics and Economics*, published in 1885, Cunningham attempted to develop his own perspective of political economy, in which his historicism attributed reasoning of economic study not to deductive

³⁴⁷ W. Cunningham, *The Growth of Industry and Commerce in Modern Times*, vol.2., Cambridge, 1907 (first pub. 1903), p.738

³⁴⁸ Ibid., pp.877-9

³⁴⁹ In the hearts of all a natural law was written by which their conduct might be tried: and since passion and temptation often led them astray to inflict injury and wrong on others, human law was instituted by means of which the dictates of natural law might be partially enforced through the fear of punishment at the hands of the magistracy. And even fuller light in regard to duty had been given to men; besides writing His law on the hearts of all, God had given a clearer revelation of His will: the regulations which had been formed by long experience for guiding men in leading a Christian life formed a code of divine law which set forth higher and purer conduct than natural law demanded or human law enforced. (W. Cunningham, *Politics and Economics*, London 1885, pp.20-1)

methodology of universal maxim, but to ‘the current morality of a society’. By this means he intended to delineate a historical trajectory of ‘gradual recognition’ of private property in a polity ordained by God. When the sovereignty was imparted by His priest, ‘trust’ was conferred upon the reigning monarch by ‘common consent’ – the monarch was throned not to rule over his fellows, but entrusted to discharge duties for ‘each and every human being for whom Christ died’. In the English tradition of good governance, the prosperity of industry and commerce, in place of either ecclesiastical authorities or the power of monarchs, had successfully observed the conditions of peace and security. In the thirteenth century, accorded by ‘royal favour’, the holy deed of trust was embedded in commercial customs of British traders by ‘taking on themselves a duty’. This enabled them to settle lawsuits over industry and commerce in ‘one town after another’ rather than bringing them to a distant court or sheriff. As far as legislature was concerned, the royal assent was granted to industrial and commercial communities for their ‘actual experience’.³⁵⁰

One crucial difference of godly life from the Roman civilisation was the Christian church’s struggle to ennoble practice of labour as a religious duty. For Cunningham, exercise of labour was identical with maintaining ‘a true discipline for subduing oneself to an earnest God-fearing life, and true means of serving God in the World’. This Christian virtue of labour was well embodied by the constitution and regulation of guild society of craftsmen, in which members worked together ‘for the honour of their trade’: this meant that they devoted to seeking ‘what was fair between the workman and the public’ and exercised authority ‘to see that this fair standard of work and of pay was

³⁵⁰ Ibid., pp.21-23

adhered to'.³⁵¹ However, Cunningham was not hesitant to argue that since there had been few attempts in the English tradition to encode the divine law into a scriptural basis of the constitution, it lost its validity as a decisive authority in guiding men to lead the Christian life after the Reformation.³⁵² The grace of God was no longer conferred to the monarch via the ecclesiastical hands, but the royal authority was intrusted in 'an agreement with the people'. At this juncture, he considered that the foundation of religious duty to obey God was rested only on the natural law and in this condition the authority's breach of the law of individuals was regarded solely as its failure to bring happiness to the people as John Locke suggested: In the hope of happiness of obtaining a security for individuals and their property, what held the people together to rectify social evils was, henceforth, 'private interests', and this ended up in shifting the relationship between the monarch and the subjects from the one, in which the grace of God was anointed, to the one as a matter of expediency dictated by 'private convenience'.³⁵³

The pre-eminence of private interests was marked, when the introduction of machinery rendered triumph of capitalism and the traditional order of industrial regulation was replaced. The decline in trust became fatal, when increased activities of human beings to pursue their private interests were in conflict with those on behalf of national wealth or of the community. It was, therefore, a role of the state to show where the 'true interest' lay. The predominant economic policy of *laissez-faire* had been first applied for the national good, but security of natural liberty did not turn individuals to fulfilling a duty of trust. It was detriment to society, insomuch as identifying individual with national

³⁵¹ Ibid., pp.29-32

³⁵² Ibid., pp.46-7

³⁵³ Ibid., pp.60-2

wealth. Since ‘self-regard could not be relied on unless it was enlightened’, free traders in view of maximising consumers’ interests failed to treat national wealth ‘with constant reference to national life, and unless this is done there may be grave defects in husbanding the resources of the nation’.³⁵⁴ It was important for the civic life to discover the interest in common and this was made possible by the ‘duty of the wise statesman’ to ‘interfere with the free play of individual self-interest’. Thus, Cunningham advocated the principle of ‘National Husbandry’ as a counter-theory to the *laissez-faire* economy, which did not take account of ‘the probable injury of posterity’.³⁵⁵

For Cunningham, the breakdown of industrial order was tantamount to disruption of the system of free competition, as large capital holders were likely to purge other rivalry and established a position as private monopolists. The principle of National Husbandry was designed to meet the interest of the public by assessing probability of state intervention in the light of current morality reflected in political institutions, laws and public discussions. When calling into mind the life of posterity, the principle combined an ‘abstract counsel of prudence’ with ‘physical means of well-being’ and in the end conjured up ‘one concrete image’ of duty as a ‘firm platform on which to rest *axiomata media* that shall serve us in seeking to judge of the right or wrong of any piece of legislation’. The principle was endowed with credibility not by the state authority making

³⁵⁴ Ibid., pp.88-114. Cobden was no cosmopolitan: he believed that if the material wealth of the world were increased each nation would be better able to develop in accordance with its own genius: but events have served to show that a nation which has the start in the race for wealth may discourage the full development of the resources of other lands, may e.g. by underselling the young industry succeed in forcing them to produce raw materials instead of manufacturing them. It is the sense of this possible disadvantage that has rendered our colonists and foreign countries unwilling to accept our policy of national co-operation in the pursuit of wealth:... (Ibid., pp.108-9)

³⁵⁵ Ibid., p.121

use of laws and constitution but by reinvigorating public opinion of the nation – ‘the hearts and work of the present generation of citizens’:³⁵⁶

Public opinion is in this land the ultimate court of appeal; when public opinion is fairly aroused on any point, changes in the law are sure to follow. Public opinion may be shortsighted in detecting an object which is important for the general interest: public opinion may be unwise in the manner of pursuing an object, and for those who feel the pressing danger of error in these directions it may be the greatest of all duties to try and enlighten and direct the public mind: but public opinion is the supreme authority which makes itself felt, and to its decision the individual citizen must conform.

In contrast to hypothetical maxims of abstract science, public opinion, despite its possibility of error and injustice, was the ‘supreme authority in matters of legislation’. It would build complementary relationship with the state: while the citizens moulded and altered a posture of the state, the latter exerted an influence on the public in terms of moral conduct – “‘No man liveth to himself alone’”, and the State is concerned in seeing that every man performs that minimum duty which public opinion demands of every citizen’.³⁵⁷ There might be a possibility of conflicts between the state and public opinion in the progress of national order. In this way, paying due attention to possible injury to posterity, Cunningham’s principle of National Husbandry aimed to resuscitate the missed divine law by the force of public opinion, whose guidance imbued individuals with a sense of trust and encouraged to perform responsible social duty.

By the means of promulgating a sense of trust, Cunningham sought to reanimate the spirit of labour movement. He hoped that the working force could organise themselves in the way the old guilds did. Despite having guild societies as its precursor, trade unions were

³⁵⁶ Ibid., p.138

³⁵⁷ Ibid., p.144

inclined to indulge in ‘selfish-heroism’, when the latter did not aim at reconciliation with the public interest, but at demanding protective legislation ‘for the sake of the body of workers alone’. While still effective as an antithesis of *laissez-faire*, this ‘class’ pursuit of ‘the well-being of the workers in a trade’ was equivalent to ‘postponing the interest of the individual to the interest of the class’.³⁵⁸ In adherence to the free trade principle, all the working class movements in England – trade unions, friendly societies and co-operative movement – had a common characteristic of dedicating themselves to ‘the maintenance of a high standard of comfort’. While giving ‘better opportunities of welfare to the masses of the people’, this concept of welfare materialism, Cunningham insisted, led to their severance from the ‘common weal’ – the well-being of the community as a whole.³⁵⁹

The difference come into clearer light when we turn from questions connected with the diffusion of material wealth, to the moral elements which are involved in the idea of well-being. In all economic conceptions there is relativity; while on the one side there are material objects, on the other we have the human beings by whom these objects are used; varieties of disposition and temperament must introduce considerable differences in the aims they cherish. These are perhaps of greater importance with respect to the influence exercised on subject peoples, than in connection with the condition of citizens themselves.

Hence, Cunningham posed a question about legitimacy of free trade. The growth of protectionism allowed rivals and colonies to become efficient and influential and this new commercial environment, he argued, undermined free competition of small capitalists. What had been discerned as ‘common estimation’ in the process of market higgling was

³⁵⁸ Ibid., pp.98-101

³⁵⁹ Cunningham, *The Growth of Industry and Commerce in Modern Times, Vol.2*, pp.878-81, quotation is from p.881

no longer meaningful, since ‘it is not possible for all the buyers and sellers, ..., to meet on the same spot; the old methods of securing publicity are inapplicable’. That being the case, Cunningham indicated the coming of new business management by large economic organisations to control the process of production and distribution:³⁶⁰

The growth of trusts in America, which are profoundly affecting English industry, both by their example and by the competition they carry on, is in many ways alien to English commercial tradition. The sentiment of publicity in transactions, and the competition of buyers and sellers in a market, has never obtained such a hold in America as it had in English life. The medieval dislike of forestalling and regrating – of private bargaining outside the market – never seems to have crossed the Atlantic; and there has in consequence been greater opportunity for organising systems of control, which embrace the production of the material for some manufacture and the distribution of production by retailing agents.

It is questionable whether the growth of American trusts was feasible to assist Cunningham’s objective to resurrect the divine law of trust in English societies. When he stressed the importance of individual attitudes to ‘common weal’ or ‘public good’, the point at issue was their moral obligations – public duties and responsibilities, both of which were fostered by positive laws of the sovereign state. This meant that subordination of private interests to public welfare was vital for industrial coordination. From this viewpoint, Cunningham continued to denounce the orthodoxy of political economy, in which natural liberty of individuals was consecrated, since the economic policy of *laissez-faire*, once successful in replacing vested interests, was likely to see a society as a self-acting mechanism of free individuals to pursue their own interests. Rather than leaving individuals to maximize self-interests and establish private monopoly, the state intervention elicited by the force of public opinion was paramount importance to

³⁶⁰ Ibid., p.875

promulgate trust by entrusting individuals a responsible social duty. In his later work, Cunningham argued that Britain's sustention of free trade economy resulted in boosting economic expansion of German Kartells, which were successful in exploiting other nations.³⁶¹ Collective action was necessary for checking individual enterprise, since 'it can no longer be assumed that the free play of private interests gives us a result which is identical with the public interest'.³⁶² In association with private industrial enterprises, the state was required to reduce economic fluctuations and put a harness upon competition between economic giants like trust organisations. It was difficult to reach compromise unless 'each is aiming at the Common Weal apart from private interest' and instead of legislative measures 'which favour the development of the community as a whole', 'class legislation' was likely to be adopted.³⁶³ Formed under the sovereign state, the common weal could project communal interests through national policy. Hence, it was perilous to distinguish economic from political and social life of human beings as neo-classical economics did. It was a problem of 'religion' to cultivate an individual sense of 'duty and responsibility' for the common weal and empirical science taking account of nation's traditions and ambitions would help this aim.³⁶⁴ For Cunningham, liberty and obligation had to be reconciled.

3.4. Collectivism and Public Opinion of L.L. Price and H.S. Foxwell

Cunningham's insistence on restoration of religion of individuals was based on trust – an

³⁶¹ W. Cunningham, *The Common Weal*, Cambridge, 1917, p.104

³⁶² W. Cunningham, *The Progress of Capitalism in England*, Cambridge, 1916, p.120

³⁶³ Cunningham, *Common Weal*, p.44

³⁶⁴ Ibid., p.92, *Capitalism in England*, p.135

ecclesiastical sanction of public duty and responsibility for the common good. His disdain of universal applications of economic science resulted in his strong emphasis upon the role of custom facilitating collective action for industrial coordination. In this sense, the force of public opinion was induced to propel the state to frame a national policy. This meant that public opinion was the source of not voluntary, but collective remedy. However, it is misleading to receive literally that different approaches to science between the inductive and deductive discipline were reflected in their contrasting languages of the concept of public opinion. In practice, until Chamberlain's proclamation of tariff reform made neo-classical economists declare the Free Trade Manifest in 1903, no clear-cut antagonistic feeling was shared between the two schools. As Koot has hinted isolation of Cunningham among historical economists, others like Langford Price, who was trained by Marshall at Balliol, and Herbert Foxwell did call on a more rational concept of public opinion in their works than Cunningham.³⁶⁵

As mentioned in the previous chapter, Price adhered to the voluntary principle and was a tenacious advocator of free collective bargaining for industrial peace.³⁶⁶ In his article 'The Relations Between Industrial Conciliation and Social Reform' he furthered this argument to the extent that moral reform of individuals was indispensable for its operation, which was out of reach of government's social and industrial reform. The institutional instalment of collective bargaining could not remove the root cause of industrial disputes, insofar as these were always rested on 'tone and temper' between masters and men towards each other.³⁶⁷ To change the situation, Price pointed to the significance of two

³⁶⁵ Koot, op.cit., p.146

³⁶⁶ See, Ch.2, Price, op.cit., *passam*. L. Price, 'The Position and Prospects of Industrial Conciliation', *Journal of the Royal Statistical Society*, vol.53, no.3, Sep., 1890

³⁶⁷ L. Price, 'The Relations Between Industrial Conciliation and Social Reform', *Journal of the*

powerful factors of the day – trade unions and public opinion. He considered that the force of public opinion would exercise ‘moral compulsion’ and lead employers to gradual acceptance of trade unions and bargaining with their employees, which turned out to be peaceful negotiation between the two parties.³⁶⁸

Like Cunningham, Price considered that the force of public opinion was efficacious in consolidating the roles of custom and habit of producers as advancing their collective action. However, his conceptual usage of public opinion was not expected to provide economic coordination, but prompt market competition as a determinant of rates of wages and prices. This meant that Price did not mean to offset the impersonal force of market economy by collective engagement of public opinion: the economic competition carried out not by individuals, but by corporate bodies. From this viewpoint, institutional practice like conciliation, arbitration and sliding scales were the means to precipitate employers and employees to accord with the market principle, while promoting their mutual conciliatory attitudes in bringing out industrial peace and moral reform. In short, these collective procedures were reckoned to increase economic efficiency, elasticity and adjustability in the market economy:³⁶⁹

It is for these reasons that conciliation – with free, informal and speedy discussion and decision between masters and men, is to be preferred to the

Royal Statistical Society, vol.53, 1890, pp.292-4

³⁶⁸ It implies that public opinion – a force for good or for evil, the potency of which, if once thoroughly awakened, it is impossible to deny – it implies that public opinion will sanction, nay will encourage, and will exercise some moral compulsion in order to bring about that meeting. And it also implies that trade unions, occupying a position of acknowledged importance and responsibility, will become more sensible of the duties of that position, will be more ready to abandon an attitude of determined hostility, will be more disposed to court publicity and to enlist public support and sympathy, will be more inclined to oppose argument to argument rather than force to force, and to convince public opinion that the strength of argument, not merely of the force, lies on their side. And here once again public opinion cannot fail to exercise some moral compulsion. (ibid., pp.295-6)

³⁶⁹ Ibid., p.299

more elaborate, formal, and necessarily lengthy proceedings before an arbitrator; and that the intermittent awards of an arbitrator, or determinations of a board of conciliation are to be placed on a lower level of advantage than the automatic and sustained regularity of a sliding scale. Conciliation affords more opportunity for frequent discussion and rapid decision; a sliding scale, during the time of its continuance, obviates the necessity for discussion or decision at all on major points. It is from this point of view as superior logically to conciliation, as conciliation itself is to arbitration; for in this sense it is more elastic – more rapidly and easily adjustable.

In the background of Price's adherence to collectivism, there was his concern about the economic legitimacy of free trade. Since the cosmopolitan value of free trade was threatened by the rise of nationalism, he considered that it was difficult to promote general welfare. When the principle of free trade made an exception to its policy of state intervention in industry and trade, it endorsed an increase in state revenue by taxation in forms of customs and excise duties in reaction to fiscal exigency caused by either military or public expenditure. Despite the fact that this was not a move to protectionism, Price argued, it was no longer plausible for the general public to make a judgment about whether the state functioned successfully without making discrimination against or giving special treatment for certain commodities. It still looked flawless in theory, but in practice, either exceptional abilities or knowledge of expertise was required for checking its sound operation of free trade and preclusion of protection.³⁷⁰ In order to advance the public interest, the rigid adherence to free trade provided no small safeguard 'against enfeebling corruption or endangering error', while the perfect neutrality of the government was hardly preserved.³⁷¹

Hence, Price acknowledged other forms of collective combinations such as profit-sharing

³⁷⁰ L. Price, 'Free Trade and Protection', *The Economic Journal*, Vol.12, 1902, pp.306-10

³⁷¹ *Ibid.*, p.313

and co-operative production and a new monopolistic organisation of trusts as the means to overcome shortcomings of free trade economy. In particular, its defective theory of 'international division of labour' was liable to renunciate 'essential or desirable elements of national life', which were 'nationally useful', but not 'internationally indispensable'.³⁷² The increasing trends to promote economic organisations would avoid falling into this pitfall of the economic orthodoxy. To give credence to collective capacities was the means to protect national economy. Nonetheless, Price did not expect collective bodies to hamper the operation of market economy. Rather, he anticipated increased productive efficiency in pursuit of unbridled market competition: these collective bodies were envisaged to 'effect certain economies in production', as they would reduce 'some waste in free competition'. Thus, the idea of economic rationality was kept in Price's discourse of political economy. At the bottom of his rationale, there was a firm conviction that it was delusory to see only the interest of consumers in advancement of free trade, as much as that of producers in advocacy of protectionism. Inasmuch as the same individual were fulfilling duties not only as a producer, but also as a consumer, 'the interests like the persons, of consumers and producers may be artificially parted, but in the nature of things they were connected'.³⁷³

Herbert Somerton Foxwell suggested a vision of public opinion, which was oriented to a rational corporatist concept. In denial of a view that theoretical and historical approaches were opposing principles, he argued that the growths of intellectual spheres in economic analysis were mutually interactive and complementary processes eroding the ideological bastion of the classical political economy. Quoting Proudhon's dictum, 'perfect

³⁷² Ibid., pp.315-6

³⁷³ Ibid., p.319

competition results in monopoly', he believed that the force of public opinion would grant economic legitimacy of reorganizing industry and trade. Since the public had accepted trade societies and their industrial legislation, it was not implausible to redirect economic policy towards 'corporate action and public control'.³⁷⁴ Unfolding his liberal corporate principle, Foxwell aimed to show that voices in demand for the development of corporate society were not all raised from the socialist middle-class in *Irregularity of Employment and Fluctuations of Prices*, published as early as in 1886.³⁷⁵

Foxwell's chief concern was how to stabilise economic fluctuations, as his motive was inspired by George Howell's statement that political economists were required to suggest not solely a way to increase wealth, but to avoid ups and downs of market economy, which 'may change fifty times a day'.³⁷⁶ 'Altruistic and social feelings' of individuals were essential for cementing a social fabric and these were defensible by fending off injurious economic turbulence. This was made possible only by the formation of industrial combinations. By this means, people in socially weaker positions were able not only to protect themselves by cultivating their customs, but to react or accommodate to new economic situation by exerting 'such feelings' in full strength.³⁷⁷ Since opportunities for reckless speculation and irresponsible management were legion in the period of limited liability, the regularity of employment was more valuable than an increase in income in terms of enhancing self-reliance and preventing speculation.³⁷⁸ To this end, Foxwell suggested a twin pillar of his economic policies – financial bimetallism for a

³⁷⁴ H. Foxwell, 'The Economic Movement in England', *The Quarterly Journal of Economics*, vol.2, 1887, pp.86-7

³⁷⁵ *Ibid.*, pp.99-100

³⁷⁶ *Ibid.* p.23

³⁷⁷ H. Foxwell, *Irregularity of Employment and Fluctuations of Prices*, Edinburgh, 1886, p.11

³⁷⁸ *ibid.*, p17

sustainable system of banking and advancement in the system of publicity for bypassing misdirection of economy and rash-speculation. These measures were considered to mitigate commercial depression and restore the healthy operation of economy, by which ‘liability should be better proportioned to responsibility’.³⁷⁹

The growth of corporatism was vitally important, since ‘future economic reform must proceed on the two lines of Organisation and Publicity’.³⁸⁰ Collective action rendered it possible to counteract an increase in the size of market economy, cushioning harms of destructive competition and deep volatility. It also provided a supply of useful information in guidance of the public. Nonetheless, while admitting the state institutions as effective for giving greater publicity of market transactions and exercising public control, Foxwell did not discard his belief in efficacy of the market principle. He was fearful of ‘tyranny of the majority’ over individuals and this would happen, when state intervention failed to maintain a certain level of production. To prevent this, Foxwell argued that the force of public opinion was expected to function as the ‘ultimate and supreme’ expression to protect the common weal from private aggression without bestowing on the state a full right of direct control. Hence, the more administrative control was decentralised, the better voluntary organisations, either trade or municipal bodies, could operate under control of public opinion ‘with due intelligence and with practical efficiency’. By ‘organisation and publicity’ it was possible to draw upon the ‘best and most effective influence of public opinion’ in defiance of political corruption and cut-throat competition in market economy.³⁸¹

³⁷⁹ Ibid., pp.56-58

³⁸⁰ Ibid., pp.69-70

³⁸¹ Ibid., pp.72-4

At the bottom of Foxwell's rationale, there was his firm conviction that 'the interest of the producer is as important as the interest of consumer'. He withstood Jevons' criticism against the expansion of civil services, since it was doubtful whether 'pecuniary loss to the taxpayers' was 'of more importance than the ruin and misery of the employed'. Free traders' adherence to the economic orthodoxy was impolitic, because 'in pursuit of mere cheapness more vital objects may be sacrificed'.³⁸² Hence, it was more urgent for Foxwell to enable workmen to reap benefits from regular employment and turn their attentions to the common interest of their trade in association with their employers. The larger a scale of industry or business became, the more powerful public opinion of the employed was rendered, because large capital required more skilful and trustful labour to participate in business and this was likely to lead to steadiness of employment. Behind Foxwell's compliment to producers, there was his appreciation of guild society of the medieval period, whose removal, he lamented, was a 'purely negative policy'.³⁸³ While voluntary settlements by conciliation boards and sliding scales were useful for workmen to secure their positions in organisations in free trade economy, the current condition of increased competition between employers hampered promotion of conditions of labour in workplace and rendered it difficult to regulate industrial output. To moderate economic competition, Foxwell argued that it was important to advance the common interest of trade. While showing a favour to developments of productive co-operation and profit sharing, he felt that it was difficult to regulate industrial concerns without legislation. By adopting a corporate framework, trade as a whole could reap the best benefits and

³⁸² Ibid., p.75

³⁸³ Ibid., p.79

workmen could foster 'solidarity of interest' in face of foreign competition.³⁸⁴

For Foxwell the growth of trade organization had to be accompanied by that of publicity. The latter was crucial for deterring corporate society from falling into corruption and inefficiency. Bringing about either complementary or contrary effects to economic organisations, the greater publicity would give the public easy access to records of market transactions like statistics of employment, income and consumption.³⁸⁵ The ideal of corporate society was achieved by extensive publicity and this was also the essence of democracy, as far as public opinion was influenced and galvanised the state authority to open channels of information.³⁸⁶

The essence of democracy is not so much government by the many, which is impossible, as publicity which makes public opinion effective, and public interests supreme. Nothing is more certain that, with the advance of democracy, publicity must become the order of the day. Publicity and organization, no doubt: but publicity, I think, even more than organisation. It is the necessary protection against fraud, against falsification, against oppression: the first condition of self-help as well as of intelligent charity. It is even more indispensable as the exterminator of corruption.

Foxwell suggested a concept of public opinion, which would protect the public interest by administering corporate institutions. In contrast to Price, who expected efficacy of market economy, Foxwell had deep suspicion about its advancement, since he did not view the modern market economy as a field of universal competition, but as of social composition: market prices, wage rates and profits were not determined by economic competition by individuals, as the old orthodoxy presumed, but by interdependence of

³⁸⁴ Ibid., pp.81-2

³⁸⁵ Ibid., pp.81-2

³⁸⁶ Ibid. pp.86-9

individuals. This meant that ‘every man’ was, more or less, ‘dependent on others for the means of economic action’ and it was misleading to adopt an economic policy of non-interference, because it was no longer a fortress of ‘general freedom of individuals’ but of the situation, which entitled ‘the freedom of the strong to prey on the weak’. Foxwell, therefore, posited the corporate concept of public opinion to elicit submission of individuals to the common interest by way of regulations and publicity. The issue at stake was not substitution of socialism for individualism, but, in his words, how to ‘socialise the individual’. To achieve this end, nothing was more effective than organisation and publicity as ‘the first rank of social duties and socialising agents’. Foxwell believed that public control would not ‘destroy more freedom than it creates’.³⁸⁷

Despite the insistence on public control, Foxwell did not discard the idea of economic rationality. While showing a belief that free competition resulted in monopoly, his theory of corporate governance, which was based on the guidance of public opinion, had a purpose to lubricate market transaction by precluding the central government from direct control of economy: the force of public opinion was expected to take a balance between economic coordination and efficiency of production. However, Foxwell’s credibility of the sense of economic rationality was lessened after the war. When he wrote an obituary of William Cunningham in 1919, he confessed as follows:³⁸⁸

I remember that in early days I was in constant though friendly controversy with him on this point, and found his position unintelligible. It seemed to me that there was no necessary opposition between the theoretical and the realistic habit, as the example of Jevons so brilliantly showed. But on further consideration I have not only learnt to understand Cunningham’s mistrust of economic theory, but find myself more and more inclined to move in his direction.

³⁸⁷ Ibid., pp.91-3

³⁸⁸ H. Foxwell, ‘Obituary’, *Economic Journal*, vol.29,1919, p.388

Foxwell kept in his mind that the fact that Cunningham stood by tariff reformers ended up in doing ‘himself and his real aims something less than justice’ as his argument was distinct from other protectionists in the continent such as Colbert and List.³⁸⁹ He did not clarify a detail in the obituary, but in a paper ‘The Nature of the Industrial Struggle’, issued two years earlier, he suggested a reason behind Britain’s different economic environment. In the growing trend of economy of scale, unbridled competition was likely to create monopoly and boost predatory business activities at the international level. In face of such situation of ‘survival of the fittest’, the English economic system of individualistic capitalism confronted a serious challenge of ‘trade war’, in which national trade policy was vital for successful competition. Since industry and trade were placed under control of large-scale economic combinations, there was a room for the state to take a hand with them, by which a support of immense resources from the state exacerbated predatory competition between nations. This economic warfare made it difficult to separate industrial competition from military wars, as they strived to inflict productive power of rival countries. Under this circumstance, ‘the weaker to go to the wall’ after struggles between bureaucratically managed economies. Hence, Foxwell, for the sake of defence, was literally more ‘inclined to move in’ Cunningham’s direction and required economic coordination ‘on a national scale, supported by a national economic policy’. However, it is important to stress that Foxwell aimed at reducing predatory competition ‘to a minimum’ and stripping ‘exaltation and worship of the State’ from economic activities. In contrast to scientific and systematic methods of continental rivals, Foxwell

³⁸⁹ Ibid., p.389

held on to a firm belief in the public control of corporate governance, in which economic organisations of trusts were exposed to the eyes of the public, which were sensitive to inspection, control and risks of conducting trades.³⁹⁰

Sceptical about economic legitimacy of free trade, both Price and Foxwell provided their contexts of political economy, in which the force of public opinion was expected to increase the role of custom to strengthen collective capacities of producers, like Cunningham suggested. However, they did not disparage efficacy of economic rationality. While Price gave whole credence to beneficial effects of market economy, Foxwell discussed its importance in preventing the central authority from taking direct control of corporate economy. At the bottom of their rationales, there was their firm convictions that the interest of producers was as important as that of consumers. Their equilibrium was safeguarded by the developments of economic organisations. In face of the growth of protectionist economy in international trade, both intellectuals did not wholly rely on the voluntary system. In particular, Foxwell's insistence on corporate governance as an essence of modern democracy was so persistent that he anticipated its role as a countermeasure against the bureaucratic control of economies in the period of trade war between nations.

3.5. William Ashley and State Intervention

Historical economists suggested their visionary concepts of public opinion, whose influence was expected to make collectivist approaches to the public good. They believed

³⁹⁰ H. Foxwell, 'The Nature of Industrial Struggle', *Economic Journal*, vol.27, 1917, pp.320-9

in inculcating the producers' sense of trust for reviving the role of custom of guild society, as a catalyst for economic coordination. Their discourses of political economy were, thus, based on how to advance national welfare in the age of corporate capitalism. This proposition sought to infuse the liberal concept of public opinion in the principle of general limited liability. The latter's collision with the traditional liberal value of the individualist doctrine of unlimited liability was so significant that the economic orthodoxy of free trade lost its credence as moral economy, since in corporate capitalism it was no longer possible for the state to retain its neutral attitude to individual interests.³⁹¹ In this circumstance, the voluntary practice of trade unions could not gain economic legitimacy in protecting workmen's freedom to exchange their property of labour. Adherence to free trade in labour served rather to make breach in its cultural premise to foster the reciprocal and altruistic sentiment between capital and labour. It was, therefore, a main concern of historical economists to revamp economic organisations of labour in the soil of corporate society and to cap it with the rule of law – market equilibrium between producers' and consumers' interest for the public good. Public opinion called for producers' custom to tame economic fluctuations, which expectedly led to appearance of socialised individuals with regular employment.

However, it is unequivocal that their collectivist solutions were not successful in gaining practical legitimacy. Alborn's survey has revealed how much degree such public sentiment of economic coordination was aroused in joint-stock politics in the late

³⁹¹ 'Meanwhile, moralists wrung their hands at the ease with which discharged bankrupts later set themselves up in business – behaviour which perhaps indicated that the British people were losing their sense of shame over getting into debt and eluding their creditors. All the more shocking was the class bias inherent in the system: small (mainly working-class) debtors often received harsh treatment, while bankrupts from a higher social position were handled far more leniently' (Searle, op.cit., p.88)

nineteenth century. He has argued that joint-stock politics had played an important role of intermediate buttress for the public interest by staving off populist turmoil between the state and the people from the period of the East India Company to the late Victorian railway companies. However, Britain's limited progress in the incorporated limited liability had its deep root in its democratic tradition, which had been opposed to formation of the public in incorporated forms. Despite a republican rationale behind advocacy of the general limited liability, it did not give rise to a large-scale economic organisations of trusts, but provided small companies and commercial communities with financial self-sufficiency. The growth of corporate bodies was circumscribed to service sectors like banking, insurance and investment and to network industries like telegraph-telephone, railways and public utilities.³⁹² In response to consolidation of the banking sector in the 1890s, a number of industrial firms moved into the incorporated status, but they were still inclined to take forms of local and voluntarist politics in a small commercial entity and, therefore, likely to end up in 'inefficient and unprofitable'.³⁹³

Alborn has argued that the less a democratic tendency was shown in joint-stock companies, the more a political role of directors was increased. This meant that when financial security was not coupled with democratic participation, directors as 'a small expert class' were more disposed to fulfill their public duty by reflecting not parochial but broader interest. A case of railways after 1880 was a specific example of handling economic balance of the whole nation. The amalgamated framework of railway companies was successful in neutralizing joint-stock politics and getting around demands

³⁹² T. Alborn, *Conceiving Companies – Joint Stock Politics in Victorian England*, London, 1998, pp.48-128. The amount of fixed-capital in transport and utilities was three times larger than that of factories in Britain. (ibid., p.79)

³⁹³ Ibid., p.153

of both traders and railwaymen. Management by the state was seen to cause ‘pork-barrel’ politics and fall into a populist pitfall of class legislation, so companies needed ‘self-government and self-management’. Until the political coordination of joint-stock railways faced financial difficulty in the interwar period, ‘expert-classes’ of directors, in association with public officials, committed to the public welfare in sacrifice of their self-interests in a more effective way than accommodation to judge-made laws.³⁹⁴ Hence, Alborn has insisted that ‘companification’ was requisite for the public good, as joint-stock politics, instead of private activities, was contributive to the state formation. Britain’s strong tradition of local and municipal republicanism had an adverse effect on demands for national efficiency.

Despite the fact that the local ‘republican’ model of management was ceded to a less political stakeholder-director relationship, there was still the immovable common-law tradition, whose rule of competition was ever premised to be the source of industrial combinations. Robert Donald, a Liberal journalist, argued that the industrial associations in England were in a scattered state owing to the strong tradition of free trade economy. In comparison with trusts bodies in the U.S., which was developed under the protectionist policy, they were barely successful in decreasing wasteful competition. As the ‘safety valve’ against monopoly and price inflation, the principle of free trade was attributed to its specific economic culture of excluding combinations. However, as long as the common law was applied equally to domestic and international trade organisations, the strong economic culture of free trade in England circumscribed their companies to the ‘economies they can effect’ and a lack of efficient management was fatal for their

³⁹⁴ Ibid., pp.165-257

subsistence.³⁹⁵

Henry Macrosty, a Fabian thinker, referred to how significant the common law tradition was in the formation of industrial culture. As long as market activities were carried out under ruling codes of customary practices, it was important to develop a standardised system for commercial and common purposes in trade and industry. Nonetheless, in the common law tradition the legal status of industrial combinations like trusts was made unlawful in restraint of trade leading to monopoly. It did not totally repudiate the right of combinations, inasmuch as it was equivalent to that of individual traders. Hence, amalgamated bodies like trusts carried out their economic activities like an engagement of a single trader, according to ‘the right to trade freely’: competition, however violent it was, was not ‘contrary to public policy’.³⁹⁶ In contrast to German Kartells, which were granted with full legal personality and combined by regulations with other members, Macrosty pointed to a ‘fragile’ character of ‘non-recognition of associations by the law’ in the common-law tradition, since individuals or members of associations were allowed to act freely and arbitrarily for their personal interests. Under this circumstance, there were ‘disintegrating forces’ in action.³⁹⁷

Whatever may have been the period for which an association was originally formed, no member need belong to it or observe its rules a day longer than he likes. Nothing can keep him to his contract except a sense of honourable obligation, and that does not always resist the temptation of an advantageous order. This fragility is increased by the almost invariable incompleteness of an association, which very rarely includes all the competitors in a district. Some are always left outside to profit by cutting prices a shade below the association rates, or it becomes profitable for another district to invade the territory of the combined traders.

³⁹⁵ R. Donald, ‘Trusts and British Trade’, *Transactions of the National Liberal Club. Political and Economic Circle*, vol.4, 1901, pp.27-8

³⁹⁶ H. Macrosty, *The Trust Movement in British Industry*, London, 1907, pp.21-2

³⁹⁷ *Ibid.*, p.22

If the common-law tradition blocked up a way to economic coordination by industrial associations as in restraint of trade, the theoretical presumptions of historical economists could not gain legitimacy in the English law. This meant that in the rise of modern corporate capitalism, corporate bodies, like individual traders, engaged with their economic activities, but their economic competition did not form a counterpoise against monopoly, rather was supposed to boost it. As long as economic organisation of labour could not gain legal recognition, the cushion to protect the public interest was torn up by speculative market activities, since there was no institutional bulwark, which was projected to reconcile market economy. Labour force was exposed to its more severe and suppressive pressure and, in the end, cornered to a more unstable condition. The legislative re-installment of the pre-Taff Vale condition of trade unions unveiled their precarious position in a decline of the voluntary market culture of free trade. When they were spurred for competition, their legislative status as charitable trusts did hardly comply with the promises of the acts in the 1870s – economic co-operation and education of reciprocal and mutual market behaviours, but acted ironically as a catalyst for social division, which became conspicuous during the great industrial unrest before the war. Its unincorporated status insinuated their preclusion from stakes of corporate economy.

In reaction to the ‘British collective action problem’ – low levels of industrial concentration, weak organisational capacity and cut-throat internal competition – the British government proposed a national frameworks of nation- and industry-wide collective bargaining. The state began to take a mediational role in industrial disputes and aimed to shape sustainable industrial relations in a way of devising the national system,

which was deemed to be compatible with the traditional voluntary market culture of free trade. After the economic downturn in the late Victorian period, traditionally strong industrial sectors like textiles, coal, iron and steel, shipbuilding and engineering confronted intensive competition in the international trade. Some resorted to extreme measures for cost-reducing and increasing output by undercutting and sweating. This long-lasting adversity heightened trade insecurity and evoked strikes. In consideration of decentralised characteristics of these industries, in which trade unions had exerted a significant influence on labour process from the mid-Victorian period, this collective *laissez-faire* system aimed at leading each organisation of capital and labour not only to acceptance of procedures of collective bargaining, but also to agreements without direct state regulations. In this way, Britain's conventional labour-intensive mode of production averted restructuring of labour process based on German and U.S. models of scientific and bureaucratic management. However, Howell has argued that this collective *laissez-faire* model of state intervention resulted in heightening employers' stake in the labour process and undermined the autonomy of local labour practice by turning trade unions into the police of their members.³⁹⁸

Historians have challenged this collective *laissez-faire* model of state intervention in view of class politics. Fox has argued that the state admitting the relentless pursuit of 'private rationality' run counter to the national interest. The formal procedure of collective bargaining, while establishing industrial peace at corporate levels, could not take account of rank-and-file opinions of working classes, but imposed on them institutional regulations and obligations, which led to disparities of wealth, status and respect.³⁹⁹ On

³⁹⁸ C. Howell, *Trade Unions and the State*, Ch.3

³⁹⁹ Fox, *History and Heritage*, pp.219-79

the other hand, Wiener has asserted that privileges gained by trade unions in the policy of collective *laissez-faire* resulted in a decline in the industrial spirit of entrepreneurs. The British culture of gentrification created an economic barrier between the flourishing financial and old-fashioned manufacturing sector.⁴⁰⁰ These historians have attributed the rise of class society to a political repercussion of the collective *laissez-faire* policy. The passage of the Trade Disputes Act of 1906 underwriting the common-law tradition placed the state in a dilemma between their traditional *laissez-faire* attitude and apprehension for the national interest. While the state endorsing free collective bargaining, the quasi-privileged status was granted to delegates constituting the national- and industry-wide level of collective bargaining. The predicament arose over whether individuals could pursue their freedom in society.

However, a salient point is that it is misleading to accuse the collective *laissez-faire* system of marking triumph of either the orthodoxy of free market economy or the socialist principle of collectivist regulation. Rather than reflecting government's wavering faith between individualism and collectivism, the outcome of class politics was derived from whether there was an institutional problem of trust, which failed to reconcile market economy with the public interest. Perkin has suggested that there was an institutional continuum between individualism and collectivism. Even in the dogmatic individualist principles of Adam Smith and Jeremy Bentham, the state intervened on behalf of 'freedom of the individual to pursue his own interest'. In line with the meaning of positive

⁴⁰⁰ M. Wiener, *English Culture and the Decline of the Industrial Spirit, 1850-1980*, Cambridge, 2004 (first pub. 1981), pp.128-9, 145-6. See Daunton's study for the connection between financial and industrial sectors. The City continued to offer the latter efficient and fluid stock market and to exchange commodities, e.g. raw materials., but Daunton argued that this ended up in opening up the gap between manufacturers and consumers. (Daunton, op.cit., pp.159-73)

freedom – ‘not merely freedom from state control but freedom to enjoy rights and privileges’ – the law was liable to make a difference in distribution of freedom in society. Perkin has argued that in case of collectivism, its label would be applied to society, in which the state accorded such liberty to more wide-ranging constituents than certain privileged individuals.⁴⁰¹ Therefore, posing a question of class politics in the collectivist society, the issue at stake was whether the state was successful in endorsing liberal rights of individuals without maximizing or restricting certain atoms of self-interests, and was oriented to the public good. The move of entrepreneur M.P.s from the Liberal to Conservative party did not represent either the supremacy of individualism or failure of collectivism in the corporate governance, as it was the institutional order of trust, which finally refrained the managerial authority in party politics from class politics in violation of collective liberty of certain individuals.

From this point of view, historians of industrial relations propounded problems of institutional order under the corporate governance. They maintained that industrial relations were shaped by institutional competition between tripartite interests – the state, capital and labour. Zeitlin has argued that in response to international and domestic pressure the state had to operate in a ‘janus-faced’ manner. Obligated to manage national economy, it had to forge interdependent relationships with subordinate interest groups.⁴⁰² In this process, the organisations of labour began to play a more dominant role in industrial relations⁴⁰³ Redman’s dissertation has revealed that the rise of the professional

⁴⁰¹ H. Perkin, ‘Individualism versus Collectivism in nineteenth century Britain: a false anti-thesis’ in Perkin, H. (ed.) *The Structured Crowd, Essays in English Social History*, Sussex, 1981

⁴⁰² J. Zeitlin, ‘Shop floor bargaining and the state: a contradictory relationship’, in S. Tolliday and J. Zeitlin (eds.), *Shop floor bargaining and the state: Historical and comparative perspectives*, Cambridge, 1985, pp.27-8

⁴⁰³ J. Zeitlin, ‘From Labour History to Industrial Relations’, *Economic History Review*, Vol.40,

civil service and its scientific, but still imperfect, approach to industrial mediation replaced the conventional wisdom of the neutral state. This ended up in boosting institutional competition between capital and labour for the political influence. The ‘class’ sentiment was accrued, when either employers or working classes faced a situation, in which they could not wipe out suspicion against the government promoting the interest of their opponent.⁴⁰⁴ Their examination of the tripartite relations suggested that in the process of consensus-making a struggle for political influence was more important than the voluntary procedure of collective bargaining, as long as in administration of corporate governance, the state had to take a balance between the national and private interest.

However, in consideration of the reformation of trust, it is imperative to draw attention to the institutional order of economic organisations. An approach had to be made to rebuild economic organisation of labour in aim to reconcile market economy with the public interest. The institutional clash between economic culture of individual and collective liberty posed an obstacle in the way to establish equilibrium between producers and consumers in corporate governance. In rebuttal of Wiener’s class-based theory of gentrification, F.M.L. Thompson has argued that the mid-Victorian enterprise culture had been grounded not on the upper-class hegemony, but on the rise of associational movements, in which religiously inspired societies like that of evangelicals disseminated virtues of respectability for business including ideas of self-help, self-reliance, thrift, abstinence, hard work, diligence and perseverance. In this sense, entrepreneurs shared a

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⁴⁰⁴ L. Redman, *Industrial Conflict, Social Reform and Competition for Power under the Liberal Governments 1906-1914*, unpublished PhD. thesis, Cambridge, 2014, and ‘Knowledge is Power? Victorian and Edwardian Employers and the Rhetoric of Expertise’, *Business and Economic History Online*, vol.9, 2011

common moral ground of economic culture, which favoured economic values like free trade, competition and minimalist government.⁴⁰⁵ A cause of social division did not lie in the decline of the industrial spirit, but rather in a change in this economic culture due to the growth of business firms. Bureaucratic control of enterprise was required to separate them from family management and to adopt more inhuman systems.⁴⁰⁶ In light of corporate governance, a new spectrum of public opinion, which called for the state as an even-handed guarantor of collective liberty of labour was expressed not by progressive liberals, whose predecessors were the main protagonists of its cause in the 1870s. James Thompson has made an enquiry into political thoughts amidst the great industrial unrest before the war and revealed various views of distributive justice in fiscal controversy from free traders to tariff reformers. In this discourse, the moral force of public opinion was a regulator of industrial disputes, but could not cast aside a doubt of class politics insomuch as MacDonald and Snowden dismissed pluralist frame of mind by reckoning working class syndicalist as neglecting the interest of consumers.⁴⁰⁷ In the Conservative tradition, on the other hand, William Ashley wrote a report for the public interest in face of the industrial unrest and revealed his vision of liberal corporatism, which gained limited purchase at that time and thereafter.

William Ashley believed in ‘socialised capitalism’ of the nation as a remedy for social division. Under the influence of the state, corporate institutions became ‘a buffer between individuals and society’.⁴⁰⁸ What he saw during the industrial unrest in the 1890s was an

⁴⁰⁵ F. Thompson, *Gentrification and the Enterprise Culture: Britain 1780-1980*, Oxford, 2001, pp.74-83,100-1

⁴⁰⁶ *Ibid.*, pp.137-9

⁴⁰⁷ J. Thompson, ‘The Great Labour Unrest and Political Thought in Britain, 1911-1914’, *Labour History Review*, vol.79, 2014, p.53

⁴⁰⁸ Koot, *op.cit.*, p.115

indifferent attitude taken by the majority of better-to-do people, who put questions of industries ‘impatiently aside’. The lack of common enthusiasm portended the division of the nation and class struggle and would lead members of the community to living ‘side by side, “envy, hatred, and malice, and all uncharitableness”’.⁴⁰⁹ Hence, Ashley considered that it was a problem of religion to make up for the social gulf and that the issue of social organisations could not be left outside the sphere of science, since the orthodoxy of the market principle was ‘indeed merely another and pseudo-scientific term for the struggle of interests which leads to the social war we deplore’.⁴¹⁰ An economic organisation could not be ‘made at all in self-contained village communities, as socialists presupposed, but required ‘much exchange of products between place and place’.⁴¹¹ If ‘ultimate test of justice is good of the community’, the right of private property should be left unfettered and he denounced the socialist premise of public control of production.

To this aim, Ashley was resolute in calling deductive theories into question. Making criticism of the modern socialism for embracing Ricardo’s theory of value of production, in which the amount of capital was proportionate to that of labour in total, he also pointed out theoretical pitfalls of Marshall’s marginal theory of distribution, since the notion of margin was ‘not much more than a verbal description of the superficial facts at a particular point of time’.⁴¹² For Ashley, these deductive theories rendered economic situations unhistorical, insofar as their static theories overlooked a fact that expressions of human desires were not homogeneous, but varied phenomena. In examination of their causes and

⁴⁰⁹ W. Ashley, ‘Methods of Industrial Peace’, *The Economic Review*, vol. II, 1892, p.297

⁴¹⁰ *Ibid.*, p.299

⁴¹¹ *Ibid.*, p.302

⁴¹² W. Ashley, ‘The Rehabilitation of Ricardo’, *The Economic Journal*, Vol.1, 1891, pp.474-489.
W. Ashley, ‘The Present Position of Political Economy’, *The Economic Journal*, vol.17, 1907, p.477

effects, marginal principles could not evaluate values, which were cultivated in historical and social contexts, since economists would find their complexity to reach a single point of unanimity. Therefore, economic history was by any chance a means to protest ‘political economy of utility’, when its abstract theories promulgated corrupted standards of ‘morality’ in child education.⁴¹³ Ashley believed that historical economists, scoping out problems of science, would offer collectivist and institutional studies in revelation of ‘the life and movement of whole industries and classes, of creation and modification of social mechanism, of the parallel progress and interaction of economic phenomena and economic thought’.⁴¹⁴

Ashley developed his thoughts of economic organisations throughout the 1890s. In ‘Methods of Industrial Peace’, he pointed out the growth of entrepreneurship as a result of prosperity of co-operative production and profit-sharing and warned that this change would outmanoeuvre the old cause of trade unionism. While making an argument that education of public opinion was important, he held that Mundella’s scheme was still efficacious to protect workers’ freedom of contract.⁴¹⁵ In the late 1890s, Ashley began to place his intellectual focus upon intermediate organisations for regulation of economic competition. By making an analysis of Aristotle’s *Politics* and his concept of ‘Barter’, he aimed to shape a concept of natural state of trade by distinguishing it from speculative practice in accumulation of wealth. The introduction of currency enabled limitless increase in wealth and property in markets catering for both goods for ‘use’ and for

⁴¹³ W. Ashley, ‘The Historical School, a Retrospect’, *Publications of the American Economic Association*, vol.10, 1895, p.118

⁴¹⁴ W. Ashley, ‘On the Study of Economic History’, *The Quarterly Journal of Economics*, vol.7, 1893, p.121

⁴¹⁵ *Ibid.*, pp.312-6

‘exchange’. Ashley considered that Aristotle sought to develop a midway by shaping an intermediate form of trade, in which economic exchange was still accorded with nature and was serviceable for household, but nothing to do with acquisition of ‘limitless quantities of money’.⁴¹⁶ Two years later, Ashley issued ‘The Tory Origin of Free Trade Policy’ and assessed Tory opinions against the Whiggery measure of the balance of trade, which had an outcome of ‘extremest[sic.] intensification’ of protection by prohibiting either French and East Indian imports. He argued that the progress in general balance of trade was in the long run more important for international trade than judging its balance on a singular basis, which provided the basis of universal applications of natural advantages in particular trades. Tory’s mercantilist perspectives, in which commercial freedom was guaranteed by increase in trade, were philosophical forerunners of Adam Smith’s publications.⁴¹⁷

An American experience in the late 1890s provided Ashley with a firm belief that it was impossible to reverse a general trend of the growth of capitalistic combinations even by a series of anti-trust laws. Under this circumstance, such legal restrictions accelerated economic competition between large scale bodies and in the end led to emergence of monopolistic conditions untrammelled by ‘any immediate fear of competition’. Since prices were no longer determined by competition, monopolistic bodies could take coordinative action by restriction of production and fixation of price.⁴¹⁸ Ashley believed that by such dynamic feature of the American industrial spirit, business entrepreneurship in function gained ‘maximum of importance’ and what this environment fostered was an

⁴¹⁶ W. Ashley, ‘Aristotle’s Doctrine of Barter’, *Quarterly Journal of Economics*, vol.9, 1895, pp.333-342

⁴¹⁷ W. Ashley, ‘The Tory Origin of Free Trade Policy’, *Bristol Selected Pamphlets*, 1897

⁴¹⁸ W. Ashley, ‘American Trusts’, *Economic Journal*, vol.9, 1899

upsurge of their ‘industrial individualism’.⁴¹⁹ In the case of unleashed pursuit of self-interest, he considered that it was a role of the state to control prices and protect consumers.⁴²⁰

Ashley’s interest in economic organisations bore the fruit in the publication of *The Economic Organization of England* in 1914. As a historical economist, he shared the sense of importance of the guild system as a clue to solve the present labour questions, since the mainstay of industrial control was obligated to fulfil ‘the general satisfaction alike of the general public and of “the workers”’.⁴²¹ For Ashley it was in the 1890s, when new paradigm of industrial control was required. It was hopeful that the modern state made use of corporate organisations in the matter of contracts between capital and labour.⁴²² Quoting T.H. Green’s axiom that ‘mere freedom from restraint’ was distinct from ‘freedom in the higher sense – the power of men to make the best of themselves’, Ashley did no longer maintain that the principle of collective bargaining would solve all labour problems. Rather, in face of the great industrial unrest, there was always a risk of industrial conflict, as long as both sides made a bargain on behalf of their immediate interests. Despite the developments of various types of economic organisations such as co-operative production, profit-sharing and limited liability joint stock companies, he believed that these expedients could not solve the problem of modern capitalist system. The remedy would lie in the economic organisation, in which there was a unity between ‘state regulation from above’ and ‘spontaneous combination from below’.⁴²³ He saw the

⁴¹⁹ W. Ashley, *Surveys, Historic and Economic*, London, 1900, p.412

⁴²⁰ Ashley, ‘American Trusts’, p.171

⁴²¹ W. Ashley, *The Economic Organization of England, An Outline of History*, London, 1954, (First pub. 1914) p.43

⁴²² *Ibid.*, p.169

⁴²³ *Ibid.*, pp.172-81

formation of economic organisations of trusts ‘as natural as the rise of the gild of the factory’, which resulted from ‘the inherent striving of capital towards profits’ and developed ‘the good side of humanity, the impulse toward mutual assistance and the desire for stability’. In terms of regulation of production, capitalistic combinations could meet demands of labour, for whom ‘steadiness of employment is far more important than the amount of remuneration’. If industrial peace was an urgent thing to secure, it was necessary to have a strong solidarity of interests not only among labour, but in association with employers.

Economic condition of consumers was a lingering concern in Ashley’s argument of economic coordination, because in the age of capitalistic combinations unrestricted competition no longer provided necessary safeguard of consumers, but brought about monopoly. This meant that there was a certain risk of communal interests. Provisions of large capital on machinery in joint-stock companies separated the two elements of production – capital and labour – and their ‘profit-seeking impulse’ was inimical to the public interest, since commercial policy and mechanical equipment were of main concerns to management. Hence, ‘labour conditions are apt to be left out of account’, as the management tended to obtain labour in cheap and easy conditions. In the modern corporate capitalism, in which ‘conscience’ of managers was ‘weakened by a conflict of apparent duties’, it was essential to form the ‘strong combinations on the side both of the employing concerns and of the workpeople’.⁴²⁴ In a case study of E.J. Smith’s experiment in England to form an industrial association in the metallic bedstead industry, Ashley argued that it was successful not only in harmonising interests of producers, but also in

⁴²⁴ W. Ashley, ‘The Task of the Welfare Supervisor’, *Economic Journal*, vol.26, 1916, pp.451-3, 456

planning to give to the public constant detailed information about the trade. In regard with social welfare, it was tenable to make checks on prices as well as managements of employment and wage rates: ‘Certainly, if combinations continue to flourish, publicity of accounts will be the only alternative to State interference; and if it is not voluntary, it will be compulsory’.⁴²⁵ The economic coordination had to be shielded by the state, which was intelligent and alert enough to protect the interests of community.⁴²⁶

Ashley was resolute in repudiating the philosophic idea of natural liberty, which Smith injected in the discourse of political economy as the liberty of individuals to pursue their own interests. He was concerned about such unrestraint condition developed a less conscious state of human beings. Despite the fact that commercial liberty as *summum bonum* called forth free trade in labour, the current problems presaged the crisis of political economy. Hence, Ashley bemoaned bigoted attitudes of British intellectuals, who ‘intended to veto any serious reconsideration of the commercial policy of this country’.⁴²⁷ Their effort to uphold Smith’s universal application of industrial and commercial humanity ended up in ‘the vain task’, insofar as abstract principles were ‘seldom more than the generalisations of common sense’ and short of causes and effects in market economy.⁴²⁸ Ricardo’s replacement of Smith’s theistic tenor by power of utilitarianism was still circumscribed by its short-sightedness owing to a static approach to one moment of economic condition, which failed to take account of future elements.⁴²⁹ Thence, in the eyes of Ashley, the flourish of German historical school was the

⁴²⁵ Ashley, *Surveys*, p.397

⁴²⁶ Ashley, *The Economic Organisation*, pp.189-90

⁴²⁷ W. Ashley, ‘Political Economy and the Tariff Problem’, *Economic Review*, vol.14, 1904, p.273

⁴²⁸ *Ibid.*, pp.275-6

⁴²⁹ Ashley, ‘The Present Position of Political Economy’, p.475

wholesome antithesis. On the labour question, while English economists legitimised the factory acts as ‘exception which did not engender their general principle’, their German counterparts saw that a ‘concession on this point ought to involve a readjustment of the whole mental attitude’. In short, the latter rendered the absolute doctrine into one of relative paradigms, which reached a truism that freedom and interference were not incompatible values in science.⁴³⁰

If in this field, optimism broke down; if, in this field, the ultimate interests of society needed to be defended against the immediate interests of individuals; if, in this field, the State had a positive part to play; then no longer could it be maintained as a general principle that “natural” economic forces always worked out to the best result; that society could be safely trusted to the individual pursuit of self-interest; that the State had no right to “interfere”.

Ashley argued that by including what Smith degraded – human reason – natural character of human beings was saved and that no ‘modern civilised state’ could survive without hampering ‘immediate individual desires and impulses’.⁴³¹ The principle of natural advantages in free trade was a ‘comparative’ and not ‘positive’ idea, insofar as such advantages had been shaped by unfavourable historical events like slavery.⁴³² Rather, he considered that the government legislation was liable to influence the amount of capital home and abroad. The neo-mercantilist policies of protection and tariff reform were beneficial in the age of large-scale production, since by the government interference it was possible to preserve the industrial spirit of the nation. Therefore, he showed disapproval of the British Labour Exchange, whose political basis was provided by the theory of the internal transferability of capital and labour under the condition of free trade.

⁴³⁰ Ashley, ‘Political Economy and Tariff Problem’, p.262

⁴³¹ W. Ashley, ‘A Retrospect of Free-Trade Doctrine’, *Economic Journal*, vol.34, 1924, p.513

⁴³² *Ibid.*, pp.523-4

He insisted the importance of governmental measures to take account of a contemporary economic condition that the mobility of labour was slower and less flexible than that of capital, since a protracted period of unemployment led to demoralisation of labour:⁴³³

When a long-established industry in England has been seriously damaged – as has, of course, occurred again and again – by changes in foreign tariffs, it has, I think, seldom happened that it has entirely disappeared. It may permanently contract into narrower dimensions, and in the next generation its place in a particular town may be taken by another and newer industry. In this case its disappearance will have been attended by an amount of suffering and, what is worse, of demoralisation.... ...the deterioration of character which does so easily beset workpeople during protracted periods of unemployment or underemployment is at least as important as a fact as the blessings of the subsequent rebound.

While New Liberal repugnance of the rule of capital turned them to pursue limitation of producers' right in the form of land reform, Conservatives took a different approach to the City's cosmopolitan finance: they saw the growing power of capital as the cause of the increased level of unemployment. Conservative political economy premised that free trade would end up in monopoly which would limit the amount of employment and that its cosmopolitan finance would corner domestic producers into unstable conditions, as the labour market was incessantly exposed to heavy pressure from foreign competition. The separation of financial sectors from manufacturing would worsen the problem of sweating and move Britain to 'living off its capital'.⁴³⁴ Contrary to the consumerist politics of free trade and gold-standard, the Conservative politics valued producers' interests by planning to increase employment for the national prosperity.⁴³⁵ It was their

⁴³³ Ibid., pp.530-7

⁴³⁴ Green, op.cit., p.235

⁴³⁵ Even free trade-oriented Balfour saw fallibility of Cobden as his oversight of nationalism and rejected the concept of international division of labour, as retaliatory and reciprocal tariff reform was the only way to cope with current economic problems. (Green, *Ideologies of Conservatism*,

rationale that collectivism would develop the national interest and that the sense of citizenship was indivisible from morale of unselfish devotion to the common good.

Two different lines of economic policies in Edwardian party politics resulted in differential theoretical approaches to industrial disputes. The Unionist Social Reform Committee (USRC) published a report in 1914, of which Ashley wrote a draft.⁴³⁶ The committee argued that it was the Tory tradition in relation to the growth of trade unionism to provide an economic safeguard of communities by harmonising the state with their interests. To this end, they considered that it was important to protect the interest of labour, at the expense of which free trade economy expanded.⁴³⁷ Since the system of compulsory arbitration could not cope with the industrial unrest, the conservative cause counted on the idealist formation of the common interest between capital and labour, on which the force of public opinion put pressure. In order to promote the national well-being, the committee sought a way of industrial peace, in which the force of public opinion could adjust the common interest of capital and labour to that of communities.⁴³⁸ This reformist solution was going to replace the principle of free trade, which could not overcome the problems of cheap labour and cheap production.⁴³⁹ It was obvious that the extensions of the framework of collective bargaining, e.g. profit-sharing, could not become an answer to a wave of strikes and lock-outs. Hence, in lieu of responding to 'narrow' and 'sectoral' industrial concerns, it was a role of the state to develop a comprehensive way to reach industrial peace. It was inevitable for them to make an advancement in public opinion and

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⁴³⁶ Koot, op.cit., p.239

⁴³⁷ H. Maurice, W. Ashley, J. Hills, *Industrial Unrest: a practical solution: the report of the Unionist Social Reform Committee*, London, 1914 pp.vi-vii

⁴³⁸ Ibid., p.3

⁴³⁹ Ibid., p.4

in economic organisations of capital and labour, insomuch as trade unions were not responsible for damage and immune from legal compulsion.⁴⁴⁰

The report pointed to a role of the Board of Trade as a mediator of industrial disputes. Eliciting a good sense from deputies of capital and labour, the Board strived to put forward public suggestions for a settlement and in this process an educated and informed voice of public opinion had to be reflected.⁴⁴¹ Such function was also expected in defining minimum wages under the Trade Boards Act of 1909 and the Coal Mines Minimum Wage Act of 1912.⁴⁴² In this way awards of industrial tribunals were grounded on the force of public opinion, which formed an agreement between capital, labour and the community. The committee was opposed to exertion of coercive force in their administration. They believed that the expanded role of state intervention would result in ‘the employment of a more regular force at higher wages and under better conditions’.⁴⁴³

On the other hand, the minutes of the Rainbow Circle, which was composed of progressive reformers, showed their growing concern over free trade economy and insisted ‘the necessity of union between religious and social affairs’ in seeking solution.⁴⁴⁴ Paying a tribute to the mid-nineteenth century ‘religious revolt’ against the Manchester School as injecting the ‘idea of brotherhood’, the circle’s New Liberal agenda advocated a cause of ‘the greatest liberty of the greatest number’ by developing J.A. Hobson’s theory of underconsumption, in which ‘ultimate duty’ of the state was to ‘guarantee work & wages to those willing to work’.⁴⁴⁵ In face of the industrial unrest, the

⁴⁴⁰ Ibid., p.15

⁴⁴¹ Ibid., pp.19-21

⁴⁴² Ibid., pp.26-8

⁴⁴³ Ibid., p.34

⁴⁴⁴ M. Freeden (ed.), *Minutes of the Rainbow Circle, 1894-1924*, London, 1989, pp.23-5

⁴⁴⁵ Ibid., pp.28,52-3

circle proposed a system of compulsory arbitration for ‘fairer distribution of the fruits of labour’ in reference to a case in New Zealand. In this framework, the force of public opinion was adopted as a complement of scientific credibility in decisions of arbitrators. The progressive plan to ‘conciliate the commercial classes generally’ did not call for challenge to the capitalist system, but for judgment of its results. This meant that the present condition of maldistribution of wealth was to be rectified, when the ‘community controls the three factors of production, in the interest of all’ – land, capital and labour.⁴⁴⁶ The progressive circle gave credit to collective solution offered by the Board of Trade, but this implied its distributive function in public control of monopolies and they discounted private ownership, as economic organisations of trusts were seen as enemies of small employers and labour.

Severity of the industrial unrest upset the Liberal administration. Lloyd George thought that it was unavoidable to adopt the compulsory measure to settle industrial disputes. He had a concern that a large-scale stoppage would damage the national economy, so strived to avert the national railway strike in 1907, for which he introduced the successful Railway Conciliation scheme. The hardest moment were spasmodic strikes occurred in South Wales and in Northumberland and Durham coal mining industries after the enactment of the Miners’ Eight Hours Act of 1908, because the act led to confusion with conventional practices of export-oriented coalfields in north-east and South Wales. In target of foreign markets, these areas adopted different work shifts from other coalfields. In particular, the Cambrian Combine’s Rhondda pit proceeded an anomalous custom, which had its origin in settlements of migrant workers from the late nineteenth century.

⁴⁴⁶ Ibid., pp.67,144

While pit-by-pit negotiations in the north-east mining were successful in some degree for eliminating a fear of outburst, breakdown of the conciliation board in Cambrian Combine culminated in long-term strikes, which persisted for ten months in 1910. When a temporary truce was agreed, some activists launched a campaign for minimum wages and this movement developed into a nation-wide movement of the Miners' Federation.⁴⁴⁷ When the national strike was announced in March 1912, the Liberal administration including Asquith, Lloyd George, Edward Grey and Sydney Buxton held a series of conferences with delegates of employers and trade unions, but ended up in vain. The Liberal government introduced the minimum wage bill and under the Coal Mines Act of 1912 minimum wages were fixed by regional joint boards. Finally, the act alleviated miners' discontent and terminated the national strike. This Liberal's decision for the extension of regulatory power marked a watershed in history of liberalism. Lloyd George later mentioned that 'Asquith's declaration for a minimum wage sounded the death-knell of the Liberal Party in its old form'.⁴⁴⁸ What this statement implied was the end of traditional liberalism, which had a synonymous meaning with the end of the voluntary market culture of free trade.

⁴⁴⁷ Reid, *United We Stand*, pp.201-4

⁴⁴⁸ To Riddell, 2 March 1912 in Lord Riddell, *More Pages from My Diary, 1908-1914*, London, 1934, p.42, cited in C. Wrigley, *A History of British Industrial Relations 1875-1914*, Brighton, 1982, pp.149, 154

Ch.4 The End of Liberal Pluralism 1900-1930

4.1. From Liberal Corporatism to Corporate Pluralism

This chapter aims to examine the limited progress of the intellectual tradition of liberal corporatism in Britain. Historical economists suggested their idealist corporate visions in reflection of positive conception of public opinion. Their standpoint was ‘liberal’ inasmuch as their appreciations of public opinion were projected to achieve the public good through inculcating the sense of trust among producers, which was conducive to rational production in counterpoise to the central control. In face of economic urgency of incorporation of labour, historical economists addressed a way to ensure collective action of working classes in corporate economy. Backing protection by tariffs, they aimed to assure autonomy of labour by remoulding the liberal institution of economic organisation of labour into the neo-mercantilist framework. In terms of conducting economic coordination under the guidance of public opinion, collective liberty of working classes was undergirded by its autonomous function. From this viewpoint, it is misleading to see visions of historical economists as identical to the continental counterparts of totalitarian protectionism and, hence, Britain’s introduction of fiscal policy based on tariff reform – imposition of import duties and imperial preferences – in 1932 was not the Tory triumph of protectionism in their long-lasting tussle with free traders. Historical studies on free trade have been inclined to overlook this point, when they stressed imperial effectiveness of tariff reform.⁴⁴⁹ By dissecting the growing concept of economic co-operation in the

⁴⁴⁹ A. Howe, ‘Popular Political Economy’, in D. Craig & J. Thompson (eds.), *Languages of Politics in Nineteenth-Century Britain*, New York, 2013, pp.129-32,

progressive movement, this chapter reveals that both free traders and protectionists imbibed the capital-centred discourse of productivist co-operation. Hence, the liberal visions of historical economists, whose concept of liberal corporatism was designated to make reconciliation with market economy, was displaced by the rise of growth oriented framework of corporate pluralism.

Unfolding the end of free trade perspective, Trentmann has underlined persistence of the *laissez-faire* relationship between the state and market as the main cause of Britain's lapse in the growth of corporate politics. In association with voluntary and popular associations, its passionate commitment to free trade failed to nurture modern economic organisations, whose organised interests were to help mediate interests of individuals, so departing it from 'alternative orders of democracy such as pluralist corporatism'.⁴⁵⁰ Orthodox liberal assumptions of individualism and the market principle were shared even among early tariff reformers, as they introduced protectionism as the means to safeguard market competition short of incorporation. Trentmann has ascribed this outlook to the business structure of British industries, which preferred family firms to incorporated status of limited liability. Therefore, party politics could successfully contain the growth of corporate politics, despite the fact that business interests had already turned their back on the fiscal orthodoxy of free trade before Chamberlain's announcement of tariff reform.⁴⁵¹ For the institutional lapse of corporate politics, this chapter, instead of emphasising the ideological hegemony of free trade orthodoxy, seeks its cause in malfunction of collectivist policies in the market economy of free trade. The flowering of new liberal

⁴⁵⁰ F. Trentmann, 'Political Culture and Political Economy: Interest, Ideology and Free Trade', *Review of International Political Economy*, vol.5, 1998, pp.227-8, 239

⁴⁵¹ Trentmann, 'The Transformation of Fiscal Reform', pp.1027-9

social reform resulted in dismissal of the pluralist premise that autonomous economic organisation of labour accommodated the public interest. In light of the state's neutral stance to market economy, its advancement of professional and scientific expertise of incumbent bureaucrats, rather, ended up in providing a collectivist basis of production in an orderly organised economic system, discounting the practice of empirical and conventional wisdom.

While it was not until the post-Second World War period that Conservatives introduced the Keynesian deficit finance, both the Labour and Conservative party began to consider a dirigiste attitude of Keynesian political economy in the 1930s. Fiscal reform for public works, which Keynes called for with a revenue tariff in 1930, presaged the Keynesian macro-economic reform of demand management by inflationary control.⁴⁵² This momentum against the deflationary politics of free trade was fomented by the intellectual endorsement of the productivist strategy, which was epitomised by producers' rapprochement between progressive employers and trade unionists in the late 1920s. While Trentmann has examined the pressure of post-First World War internationalism and wartime experience of production as twin catalysts for erosion of free trade, this chapter unfolds Britain's internal conversion in the intellectual discourse.⁴⁵³ There was the progressive turn from consumerist politics of free trade, in which consumers were equivalent to the national interest as 'one trade in politics', to productivist politics, which, incentivised by international co-operation and industrial reorganisation of domestic production, provided producers with a theoretically rational guideline for coordinated

⁴⁵² E. Green, 'The Conservative party and Keynes' and R. Toye, 'The Labour party and Keynes', both in Green & Tanner (eds.), *The Strange Survival of Liberal England*, Ch.4 & 5

⁴⁵³ Trentmann, 'The strange death of free trade'

capitalism. This shift in the idealist notion of progressivism was set in motion by both Liberal and Conservative political economy of William Beveridge, Arthur Steel-Maitland and Harold Macmillan and bequeathed to the Keynesian Revolution of the mid-twentieth century.⁴⁵⁴ On this premise, this chapter places a particular focus on the making of what Green has pointed out as ‘intellectual perfectionism’ – the triumph of abstract and deductive approach to corporate pluralism in economic rationalisation.⁴⁵⁵ In this process, the productivist language of economic rationalisation replaced the voluntary voice of public opinion, whose liberal role in early Conservative political economy was an informed source of inductive methodology, evaluating the experience cultivated by customs, institutions, laws and cultural virtues as the means to find out the common interest in policy-making. At this juncture, the liberal corporate form of collectivism as the bulwark of the public interest was demolished by the macroscopic rhetoric of corporate pluralism, which promoted economic protection not for the self-defensive economic coordination by trust, but that for the prosperity of national economy.

The liberal tradition of free trade, which was characterised by the consecrated interest of consumers, ensured the labour right of freedom of contract, when the trade union laws of the 1870s legitimised the voluntary operation of collective bargaining. This economic subculture of Victorian society was an outcome flowing from the revived current of radicalism, whose demands for individual rights and equality before the law were asserted against the ancient regime in the seventeenth century. However, this long-lasting condition of Non-conformist liberty, based upon the common law tradition and local

⁴⁵⁴ See Steel-Maitland’s strong relationship with Beveridge in terms of unemployment issues in Green, *Ideologies of Conservatism*, Ch.3

⁴⁵⁵ *Ibid.*, p.288

democracy, was hampered, when the growth of corporate society called for the economic incorporation of labour into the legal principle of limited liability. As the Common Law tradition acknowledged the legal personality of corporation, the voluntary practice of free collective bargaining placed the latter under difficult condition, entangled in its judicial dilemma between individualism and corporatism. Despite the Trade Disputes Act of 1906 absolving trade unions from corporate responsibility, they got into difficulty in securing the market equilibrium between capital, labour and consumers in corporate economy. Insomuch as the legal status of trade unions was grounded on the institutional premise of voluntarism, the legislative embrace of the principle of limited liability led to conflict with the conventional practice of securing the public interest in the tradition of free trade. A problem of British social virtue of trust arose, when its traditional premise of free trade could not be effective in ruling out monopoly and crippling economic combinations. Since the common law tradition permitted speculative market competition by collective bodies, which served to establish monopoly in market economy, the voluntary framework of collective bargaining did no longer endorse the autonomy of trade unions.

On this premise, the last chapter examined corporate visions of historical economists. In face of economic urgency of incorporation, their approach to corporate economy suggested a crucial role of economic organisation of labour as the means to ensure collective action of working classes. In England, institutions of trust were evolved in association with their strong sense of charity and in the guise of an unincorporated organisations. It had prescribed personified ownership of the land in trust on the basis of unlimited liability as an attestation of liberal conscience. When the principle of general limited liability granted the incorporated status to labour, the voluntary practice was susceptible to corporate interests and no longer assigned to define rights and duties to

share the sense of common good with their employers. In the context of historical economists, the positive conception of public opinion, with its holistic and inclusive character, was appreciated in a different manner from universalistic and individualist neo-classicism. To reconcile the impersonal force of market with the common good, it demanded autonomy of corporate bodies as the institutional bulwark of collective liberty of the working classes, who were granted the incorporated status. By this means, historical economists suggested pluralist visions of economic coordination by establishing a channel of intermediate organisations between the state and communal interests. However, in practice, their aim to rebuild trust by the neo-mercantilist economy was cast aside, as the rule of competition, besides Britain's limited progress in incorporated limited liability, hampered their legitimacy. The report of the USRC committee saw that in face of industrial unrest, it was a role of the state to seek a 'common interest' between capital and labour and provide economic safeguard of the latter, at the expense of which free trade economy made an advancement. For historical economists, the issue at stake was not material welfare of working classes, but their industrial spirit as a catalyst for enhancing trust to perform social duty to each other.⁴⁵⁶

In defence of free trade, the Edwardian progressives developed the ideology of free trade by linking to social reform. As a safeguard for democracy and the rights of community, they sought to maintain the neutrality of the state and fend off organised cliques and vested interests from domineering politics. In this attempt to reconcile morality of free trade with the world of protectionism, they had recourse to state intervention in the right of property via direct taxation.⁴⁵⁷ This New Liberal collectivist principle, hence,

⁴⁵⁶ See Chapter 3.

⁴⁵⁷ Howe, *Free Trade and Liberal England*, pp.137-8,192-3

abandoned the *laissez-faire* nature of liberalism and forged its organicism by taking account of Henry George's land nationalisation. Land reform was aimed not only to cover the fiscal expense of the Boer War, but to increase benefits of peasant proprietorship. Instead of underlining free exchange of individual producers as in classical liberalism, this collectivist innovation of people's budget enshrined consumers' right of cheap food by reductions of import duties as much as people's welfare by progressive policies, like minimum wages, labour exchanges and nationalisation. Its aspiration of consumers' interest marginalised the old-rhetoric of free-trade, whose individualist tenor insisting self-help, low taxation and free competition won a massive appeal to small proprietorship in the mid-Victorian period. Rather, the New Liberal politics attracted lately registered working-class electorate, who saw free trade as the best means to defend from oppressive aristocracy, high wages, cheap prices and political autonomy of working classes. Promoting redefined liberal values of peace, community and consumer welfare, free trade formed the national identity of Britons and became a secular religion in the Edwardian period.⁴⁵⁸

As to politics of industrial relations, the New Liberal policy of collective *laissez-faire* overshadowed liberal perspective of historical economists. It held out the voluntary practice of collective bargaining by the state undertaking a mediational role in industrial disputes. In order to contain large combinations of producers, its programme promoted social welfare and strengthened the distributive function of the state to make equilibrium between production and consumption. Setting the national or industry-wide framework of collective bargaining, short of direct state regulations, this adherence to quasi-*laissez-*

⁴⁵⁸ Ibid., pp.265-6 and 'Popular Political Economy', pp.134-5

faire model of industrial relations developed a rift between officialdom and civic culture of rank-and-file unionists. The dissolution of pluralist perspective arose, when demands for the corporate interest took over the voluntary process between capital and labour organisations. By developing the concept of corporate bias Middlemas saw that an ideological fault line between liberal corporatism and corporate pluralism appeared, when the state formed a public consent and consummated a harmonious condition without taking into consideration wisdom of public opinion. The central control was successful in claiming to gain a public consent or tolerance by 'opinion management'. Under the rule of free collective bargaining, equivalent to the constitutional status for trade unions and employers' organisations, the quasi-*laissez-faire* regime was conditioned to disclose political ambivalence. The state could draw on these governing institutions, which remained untied with its compulsory regulations, to form quasi-corporate pressure to stabilise industrial relations.

The growth of corporate bias was rooted in Britain's voluntary culture, which evaded the state level administration of industrial relations. Distinct from totalitarian constitutions of the continental counterparts, the collective *laissez-faire* system acknowledged trade unions and extensive shop-steward movement and achieved uninterrupted production and benefits without utilisation of incorporated framework.⁴⁵⁹ However, Middlemas argued that the voluntary voice of public opinion was gradually given less weight in the process of industrial regulations. As in the Taff-Vale judgment, the state initiative was reflected in preservation of economic and social order and propaganda agencies of party politics contrived to valorise authority of state intervention by making an appeal to its neutrality

⁴⁵⁹ K. Middlemas, *Politics In Industrial Society, The Experience of the British System Since 1911*, London, 1979, p.128

around the time of the First World War.⁴⁶⁰ The post-war industrial turmoil entrenched the corporate bias, since the government placed public opinion under control of scientific methodology for industrial regeneration.⁴⁶¹ Despite the failure of industrial parliament like the National Industrial Conference and Whitley Councils, the government tended to commit themselves to avoidance of political change and class conflicts by encouraging the triangular co-operation between the state, trade unions and business interests.⁴⁶² This process disrupted the voluntary pluralist system and stripped the ‘countervailing power of the public to control government’.⁴⁶³ Steel-Maitland already noted in 1926 that in the use of the Industrial Court ‘the only sanction behind its findings is public opinion – which is in fact of very little weight in any but the most important disputes, and even then most uncertain in its operation’.⁴⁶⁴ The climax arrived, when the TUC admitted the managerial hegemony of the government introducing the legally coercive industrial arbitration and its managerial budget between 1941 and 1943.⁴⁶⁵ Setting corporate goals through official expertise of the state bureaucracy, ministers and civil servants with their bargaining partners played a central role in administration and legislation of national policy in place of the classical democratic system of parliamentary politics. This chapter examines an intellectual and institutional groundwork of this development of authoritarian manoeuvre of collectivism.

⁴⁶⁰ Ibid., ch.1-6

⁴⁶¹ Ibid., pp.376-7

⁴⁶² Ibid., pp.122-3, 380

⁴⁶³ Ibid., p.367

⁴⁶⁴ Ibid., p.353

⁴⁶⁵ Ibid., p.374

4.2. Unemployment and William Beveridge

The Conservative vision of corporate society, based on tariff reform, gained a limited purchase in confrontation with the marginalist revolution in economic theory. When the New Liberal engagement in conservation of natural liberty demanded idealist infusion of state action for the cause of ‘justice’ in grievous conditions of poverty and inequality in free trade, they adopted marginalist accounts, which Hobson identified as ‘the modern mathematical incarnation’ of natural liberty.⁴⁶⁶ Neo-classicism provided the liberal orthodoxy with a scientific paradigm and ‘egalitarian and consequentialist dimensions’ of utilitarianism was evolved in critique of land ownership in the late Victorian and Edwardian periods. It helped to shape New Liberal definition of the role of the state. Thompson has pointed out that ‘the advent of marginalism reinforced the view that maximizing utility required attention to distribution, particularly through the taxation system’.⁴⁶⁷ In consideration of the relation between the state and the people, New Liberals developed their organicism and introduced their original concept of the community, in which the state was assumed to be ‘an ethical polity’ – ‘the embodiment of the ethical life of the community’.⁴⁶⁸ In this context, public opinion, in consumerist terms, played a role of linkage between politics and society and as an economic regulator it endorsed the Labour Department of the Board of Trade to make a statistical survey on industrial relations.⁴⁶⁹ The progressive discourse of minimum wages complemented this New Liberal revision of free trade in the light of poverty and inequality.

⁴⁶⁶ Thompson, ‘Political economy, the labour movement and the minimum wage’, pp.69-70

⁴⁶⁷ Thompson, ‘Modern Liberty Redefined’, p.734

⁴⁶⁸ Ibid., pp.735-6

⁴⁶⁹ Ibid., p.744

In the 1906 election popular politics of free trade swept aside Chamberlain's tariff reform programme. Prosecution of the Boer War provoked outrage of free traders. To cover its budgetary deficit, New Liberals proposed their collectivist principle of free trade accompanied by increase in the state revenue by direct taxation. In this refined version of free trade, it was a duty of the government to ensure people's welfare through land reform. Such Edwardian liberalism formed an ideological unity. It became a rallying point not only of liberal and labour progressives, but also of pro-Boers and Liberal imperialists, both of whom aimed for expansion of the free trade empire.⁴⁷⁰ Political rhetoric of free traders enshrined the consumers' right of cheap food and aimed disempowerment of the vested interests. Contrary to Conservative collectivism, which valued the national interest of producers by introducing tariff reform and bimetallism, free trade consumerism was grounded on cosmopolitan finance by gold standard as an incentive to a fall in price. The popular discourse of political economy legitimized unilateral free trade as an only rational principle, which defended the 'cheap loaf' and free breakfast table – symbols of liberal society after 1846. With the radical programme of land reform, free traders protected autonomy of civil society as well as politics of active citizenship from claims of old and new absolutism – aristocracy and organised interests of producers. In this way, New Liberalism developed the moral-political conception of free trade into the organicist framework, in which 'citizen-consumer' disseminated co-operative value of commerce and brought about social unity as a collective end of liberal-democracy by expansion of social utility of consumption.⁴⁷¹

⁴⁷⁰ Howe, *Free Trade and Liberal England*, P. Clarke, *The Progressive Movement in England*, *Transactions of the Royal Historical Society*, vol.24, 1974

⁴⁷¹ Trentmann, 'Political Culture and Political Economy', pp.229-33

To prevent malfunction of free trade, the New Liberal rationale of ideal citizenship called for the collectivist social reform. Harris has argued that the growth of social welfare was due to a shift in political thought, in particular increased infiltration of ‘idealism’, which aspired for the ‘ideal state’ based on ‘active citizenship’ and ‘popular democracy’. Promulgated by popular and voluntary organisations, such humane, rather than technical, discipline of idealism invoked moral and ethical minds of individuals and disposed them to social reform, which eventually set Britain’s modern and corporate framework of welfare system. In this process, it is misleading to emphasize a clash of ideals between individualism and collectivism. The growth of idealism was conspicuous not only among the discourse of Nonconformist intellectuals upholding libertarian individualism, but also among Conservative and Liberal, Labour advocates of central service of the state. In particular, political theories of the radical utilitarian wing of liberalism, including new liberalism and ethical socialism, helped to legitimate its dominance.⁴⁷² In the welfare state, the rights of property were no longer immune from appropriation, but contingent upon national welfare managed by professional experts. Green’s idealism of property rights gave a cause of state intervention for ‘positive liberty’ – ‘the duty of community to develop those rights’ in a form of professional service to social justice and efficiency. The latter consisted of educated officials assigned by trust of society to act as a guarantor of individual liberty and obligated to persuade ‘the public and the state’. The concept of ‘welfare state’, thus, depended on professional classes to provide alienated people with ideal citizenship in the name of relief.⁴⁷³

⁴⁷² J. Harris, ‘Political Thought and the Welfare State 1870-1940: An Intellectual Framework for British Social Policy’, *Past & Present*, no.135, 1992, pp.116-41

⁴⁷³ H. Perkin, *The Rise of Professional Society England Since 1880*, New York, 1989, pp.116-140

The New Liberal policy of industrial relations was based on statutory provision of the principle of collective bargaining and administrative compensation for unemployment through labour exchanges and the national insurance. The Board of Trade was designated to embody these ideals of the organicist economy. Mundella, as its president during Gladstone's third administration, drew on efficiency of central control to maximize benefits of free trade in relation to foreign protectionist tariffs.⁴⁷⁴ Having a close tie with the TUC, he introduced consumer-oriented economic policies like the Railway and Canal Traffic Bill, which aimed to reduce railway's freight charges and to set preferential rates for domestic industries, and finally succeeded in allotting executive power to the Board of Trade for settlement of industrial issues.⁴⁷⁵ Based on the final report of the 1891 Royal Commission on industrial relations, Mundella introduced a bill, which provided the Board of Trade with an initiative to set up the scheme of collective bargaining during industrial disputes. The Conciliation Act of 1896 enabled inspectors of the Board of Trade to inquire into conditions of trade and to play an advisory role in industrial mediation. In co-operation with local authorities, they aimed to establish not temporary, but standing boards of conciliation and arbitration and settle industrial disputes by offering optimal solution, which was not legally binding.⁴⁷⁶

Davidson's study has revealed the way the Labour Department of the Board of Trade utilised statistical accounts. It did not suggest either eugenic or progressionist application of quantitative data to industrial issues, but empirical and environmentalist policies of officials. Their minimalist programme was planned to secure interdependence between

⁴⁷⁴ J. Spain, 'Free trade, protectionism and the food of the people: the Liberal opposition to the Cattle Diseases Bill of 1878', in Biagini (ed.), *Citizenship and Community*, pp. 168-192

⁴⁷⁵ Armytage, *Mundella*, pp.246-92

⁴⁷⁶ Sharp, *op.cit.*, pp.280-92

capital and labour by redefining their common interests. Hence, in provision of labour statistics, the Board of Trade prospected its conciliatory role as the means to educate public opinion, in preference to development of drastic politics changing the conventional relationship between the state and market economy. Lack of theoretical consensus in statistical analyses made it possible for officials to make rather 'goal oriented' approaches based on their value judgments than offering predictive prescription of aggressive scientism, which were seen as divisive as that of socialist schemes of public works and the national minimum. Such administrative rationale of the Board of Trade helped to establish a paternalist structure of stabilising industrial relations in the statutory provision of the boards of conciliation and arbitration.⁴⁷⁷

There was an increased tendency among officials to see unemployment as a national problem and as failure of the administration to rationalise the labour market. With the extensive national budget, the efficient organisation of labour market and state-subsidized national insurance were their twin pillars of social reform to increase welfare of unemployed. Under the presidency of Churchill, the Board of Trade established labour exchanges with an aim to coordinate labour market into the national system by issuing statistics about employment. Furthermore, integrating administrations of labour exchanges, trade boards and industrial conciliation into the Labour department, William Beveridge, a young official of the Board of Trade, formed a basis of a national system of social insurance, which met a criteria of upholding industrial discipline and efficiency. Llewellyn Smith developed the system of compulsory insurance for working classes in three major industries – shipbuilding, engineering and construction. After the passage of

⁴⁷⁷ R. Davidson, *Whitehall and the Labour Problem in Late-Victorian and Edwardian Britain – A Study in Official Statistics and Social Control*, London, 1985, pp.242-69

the National Insurance Act of 1911, the Board of Trade established a board constituted by a panel of referees from employers and workmen, who played a judicial role in cases of an appeal. The New Liberal ideal of social reform was advanced by the Board of Trade, which strived to reconcile administrative machinery with interests of both employers and workers without surrendering industrial efficiency.⁴⁷⁸

Beginning his career in the Board of Trade after receiving an offer as a full-time official from Arthur Wilson Fox, who, with Churchill, was interested in implementing labour exchanges, William Beveridge aimed to take an initiative in introducing a policy of more radical state intervention. Beveridge was regarded as a 'leading authority' of unemployment questions and engaged in educating public opinion about the topic as a correspondent to the *Morning Post*. He first attempted to apply the principles of classical political economy, but came to thinking it more useful to focus on more practical and quantitative aspects of the problem. Hence, he sought a recourse to statistical and sampling methodologies. When Churchill introduced the Labour Exchanges Bill, it adopted Beveridge's suggestion of the central, regional and local administration of the system, which made the Board of Trade possible to 'collect and publish information about employment, and to frame regulations for labour exchange management'.⁴⁷⁹ The system, in the end, handled the problem of supply and demand, which was 'not altogether out of relation to one another in amount but different often in kind', and was expected to contain the revolutionary sentiment of socialist agitators. Llewellyn Smith's compulsory unemployment insurance scheme, which formed the second part of the National Insurance

⁴⁷⁸ J. Harris, *Unemployment and Politics, A Study in English Social Policy, 1886-1914*, Oxford, 1972, pp.281-368

⁴⁷⁹ J. Harris, *William Beveridge – A Biography*, Oxford, 1997, p.173

Act, drew upon Beveridge's papers on the Poor Law Commission. Extending the tradition of Benthamite utilitarianism, Beveridge's nation-wide system increased the capacity of the government to absorb and integrate forces of jobless into society.⁴⁸⁰

Compiling a series of lectures in Oxford in 1908, Beveridge's publication of *Unemployment: A Problem of Industry* outlined his salient principle in regard with state intervention in the labour market and this later became the standard text about the subject across much of the political spectrum, including the ILP. Beveridge believed that the question of unemployment could not be solved by estimating public expenditure of the Poor Law relief, but should be addressed as incompleteness of industrial organisation, which required in the course of reform some change in conventional thoughts and customs. Hence, he made an approach to industrial methods of how to remedy maladjustment between supply of labour and demand for labour and bring out efficacy of the labour market. A cause of unemployment could not be attributed either to overpopulation or amount of industries, since neither suggested intelligible relevance to good and bad moments of employment.⁴⁸¹ Since there was contemporarily an enough amount of wealth to satisfy the whole existing demands for production, Beveridge agreed with Hobson's theory of underconsumption and considered that cyclical fluctuation was triggered by a failure to put an adequate amount of capital onto production, which was usually in excess of existing demands. From this viewpoint, formation of trust organisations to halt market competition had an adverse effect, since they rather held abundant reserve of both capital and labour. On the contrary, it was required to tackle the problem of underconsumption, a supposed root-cause of trade fluctuation, by breaking into over-savings. Having a

⁴⁸⁰ Ibid., Ch.7 and 8.

⁴⁸¹ W. Beveridge, *Unemployment: A Problem of Industry*, London, 1910 (first pub.1908), p.15

recourse to natural adjustment by market economy would make a balance between supply and demand by lowering prices of commodities.⁴⁸²

Beveridge suggested his remedy of labour exchanges, seeing the problem of underemployment as that of business organisation holding excessively 'a reserve of labour power to meet fluctuations'.⁴⁸³ It would unify the labour market and helped to achieve decasualisation, since disintegrated labour market gave a cause of an increase in aggregate reserve of labour power. By this means, it was possible to cut further down an irreducible minimum of unemployment, since employers could now hire labour from different places. The Unemployed Workmen Act of 1905 did not replace difficulties of relief works derived from management expenses, separation of deserving from underserving recipients, providing incentive of self-help, and its liability to grant more favourable conditions than regular work.⁴⁸⁴ Therefore, Beveridge argued that it was essential for the state to humanise industrial conditions before promoting relief works, since it was misleading to grasp a cause of unemployment as a matter of emergency emanated from trade depression, but more understandable to see as economic disorganisation, by which industries failed to reabsorb casual workers:⁴⁸⁵

The solution of the problem of unemployment must consist, therefore, partly in smoothing individual transitions, partly in diminishing the extent of the reserves required for fluctuation or their intervals of idleness, partly, when this plan can go no further, in seeing that the men of the reserve are properly maintained both in action and out of it. The problem is essentially one of business organisation, of meeting without distress the changes and fluctuations without which industry is not and probably could not be carried on. It is not a problem of increasing the mere scale of industry. It is not a problem of securing a general balance of the demand for labour and the

⁴⁸² Ibid., pp.61-3

⁴⁸³ Ibid., p.110

⁴⁸⁴ Ibid., pp.164-92

⁴⁸⁵ Ibid., p.193

growth of the supply – for this general balance is already secured by economic forces – but one of perfecting the adjustment in detail. ...New industries ...may or may not bring increased prosperity. All history shows that a rising demand for labour is no cure for unemployment.

This frame of mind was connected to Beveridge's renunciation of a 'Right to work' – provision of 'useful work' by the state. It was not a temporary measure to act as reservoir of labour, but it was obvious that it failed to conduct business in respect to substantial value of work and public deficit it burdened.

Before the state offered remedial employment to involuntary idleness, a more crucial step had to be taken by establishing a marketplace of 'Exchange', where people who supplied and demanded labour were put into contact by an integrated and consolidated institutions. Organising labour market by the network of labour exchanges was efficient in gathering and spreading information about employment and replaced the old custom of tramping by individuals. By mastery of unemployment, the state could prevent economic loss incurred by mismatch between the supply and demand and avoid losing opportunities of production. The policy of 'decasualisation' calculated the minimum number for work at the head office of labour exchanges and regularised and stabilised life of individuals, making them accessible to the same job. However, this decasualisation process involved a risk of hardship imposed upon labour, as it provoked an increase in industrial efficiency and employers' business did no longer need to bear reserve of labour. Hence, Beveridge argued that until decasualisation was achieved to a substantial degree, subordinate institutions in relation to job-training, emigration and public works like the scheme of afforestation and national workshops had to counterbalance its operational demerits.⁴⁸⁶

⁴⁸⁶ Ibid., p.206

With a guarantee of mobility and adjustability, the efficient management of labour exchanges could secure ‘organised’ fluidity of labour market and the growth in production. With the support of public opinion, labour exchanges could offer employment with reasonable earnings and afford a remedy of underemployment: ‘The Labour Exchange thus opens a way of “dispauperisation” more human, less costly and more effective than that of the “workhouse test” – the way of making the finding of work easy instead of merely making relief hard’.⁴⁸⁷

Beveridge’s principle of labour exchanges represented a strong influence of the tradition of political economy, but Beveridge pointed out Adam Smith’s theoretical and practical defects as its negligence of the force of friction involved in the process of economic competition.⁴⁸⁸

The object of labour market organisation is the close, continuous and automatic adjustment of existing demand and supply over the largest possible area. The weakness alike of theory and practice in regard to unemployment in the past has been the assumption that this adjustment was already substantially secured; in other words, that the force of friction might be neglected. The demand for labour has been taken for purposes of our argument as if it were single and concentrated; the supply of labour as if it were infinitely mobile and adaptable. The demand is, in fact, broken up by distinctions of place and quality, and subject to perpetual change and fluctuation. The supply is rendered immobile by ignorance and less adaptable by every year of age. Adam Smith and his followers were right in emphasising the mobility of labour as a cardinal requirement of industry. The practical application of their teaching has been inadequate because it has been confined to abolishing visible and legal obstacles to motion, such as laws of settlement and of apprenticeship. It has left untouched the impalpable but no less real barriers of ignorance, poverty and custom. If friction and the waste involved in friction are to be eliminated from the labour market, there must be, not mere absence of legal obstacles, but organised and informed fluidity of labour.

⁴⁸⁷ Ibid., p.216

⁴⁸⁸ Ibid., p.216

This institutional materialisation of the supply and demand was, as mentioned above, consummated by organisation of labour exchanges, which built an efficient network of industrial reserve of labour. This central operation of labour market made it easier to introduce later the national insurance scheme as much as the amended Poor Law, since it could concentrate and grasp demands for labour and facilitate pivotal management, which was empowered to spread burdens of unemployment ‘over all the men of the trade’ and this would ‘make the burden tolerable’.⁴⁸⁹ Despite workmen were required to accommodate an increase in efficiency to follow demands for labour and engage in production in the modern organisation, however, Beveridge was confident at a belief that such social policies would be ‘less and less necessary’ and that temporary relief be brought by a ‘function of industry’ in the future. If the central management could succeed in reduce wasteful reserve of labour, self-supporting industries would be able to tide them over during periods of depression. It would not limit individual liberty, as ‘the heaviest stress of competition will fall where it can be borne with the least suffering and where it is most needed to prevent stagnation’. Its premise was set upon Beveridge’s theoretical understanding of supply and demand in labour market: while ‘the demand for labour cannot be stereotyped save in a stagnant industry’, ‘the supply of labour may be made immeasurably more capable of following and waiting for the demand’.⁴⁹⁰ In order to seek the balance of supply and demand under the central control, hence, while the intelligence unit of labour exchanges took into consideration information about demand for labour, it left accounts of its supply-side out of its attention.⁴⁹¹

It is a policy of making reality correspond with the assumptions of economic

⁴⁸⁹ Ibid., p.230

⁴⁹⁰ Ibid., p.235

⁴⁹¹ Ibid., p.237

theory. Assuming the demand for labour to be single and the supply perfectly fluid, it is not hard to show that unemployment must always be in process of disappearance – that demand and supply are constantly tending to an equilibrium. The ideal for practical reform, therefore, must be to concentrate the demand and to give the right fluidity to the supply.

4.3. The National Minimum and The Webbs

Upholding the principle of free trade, the New Liberal governance attempted to safeguard efficacy of market function by the statutory institutions. The organisation of labour market was arranged by the legislative provisions of collective bargaining, labour exchanges, and compensatory schemes such as the national insurance and administration of wage floors. However, historians have pointed out that such New Liberal organicist approaches to the labour market did not result in the situation, which professional civil servants had estimated as rational. Rather than an increase in reconciliation between market economy and municipal interests, these measures of administrative mediation gave rise to the institutional competition for political influence between federative organisations of employers and workers.⁴⁹² Using the literature on industrial relations to rethink historical relationship between the state and industries, Melling has examined impact of politics of state welfare upon British convention of freedom of contracts based on the voluntary scheme of collective bargaining. His survey unveiled a fact that the national schema could not successfully dovetail with the established, but declining, at that moment, private system of workplace welfare. For instance, in the process of implementing and operating labour exchanges, it was requisite for officials of the Board of Trade to form collective relations with approved organisations representing capital and

⁴⁹² Redman, op.cit.

labour respectively. Furthermore, the scheme of national insurance encouraged employers to introduce into a hierarchical structure of workplace a section of employees, who were labelled as 'white collar' and specialised in clerical, supervisory and negotiating roles. In short, when the state set a normative order in relation with individual or collective rights of citizens, there arose institutional competition by political actors including federative business of both employers and workers.⁴⁹³

This organicist approach to the labour market by installing mediational institutions, which became a political expedient after the strike waves in the 1890s, did not lead to a general consensus of industrial relations. One of the most notable cases, in which the Board of Trade met employers' resistance, was Penrhyn's decline of the Board's request, when the North Wales Quarryman's union called for higher wages and trade union recognition.⁴⁹⁴ In confrontation with collectivist reform such as the Workmen's Compensation Act, the Coal Mines Eight Hours Act, and the National Insurance Act, employers showed different reaction. While the Birmingham Chamber of Commerce demanded the Continental style of regulative social legislation, the Association of British Chambers of Commerce and the Engineering Employers' Federation (EEF) supported welfare policies as necessary to improve economic efficiency. The majority of employers, however, were hostile to the national programmes as they still preferred private welfare system: according to Hay, they sought to justify 'the existing hierarchy of enterprises, their unitary ideology and ... the inequality of the distribution of power and property'.⁴⁹⁵ Showing support to Charles

⁴⁹³ J. Melling, 'Welfare Capitalism and the Origins of Welfare States: British Industry, Workplace Welfare and Social Reform, 1870-1914', *Social History*, vol.17, no.3, Oct., 1992

⁴⁹⁴ Clegg, Fox & Thompson, op.cit., p.213

⁴⁹⁵ R. Hay, 'Employers and Social Policy in Britain: the evolution of welfare legislation, 1905-14', *Social History*, vol.2, 4, 1977 and 'Employers Attitudes To Social Policy and the Concept of "Social Control", 1900-20', in P. Thane (ed.), *The Origins of British Social Policy*, London,

Macara's Employers' Parliamentary Association, such employers called for traditional rights of free trade liberalism, since it was consumers, upon whom their increase in costs was finally imposed.⁴⁹⁶

In face of increased international competition and its pressure upon national economy especially on crucial industries such as coal and railways, the Board of Trade was inclined to secure returns on capital at the expense of trade union interests. The Conservative presidents like Charles Ritchie and Gerald Balfour sought to make use of the 1896 act as the means to vent working class grievance and to coerce trade unions to take a line with the government.⁴⁹⁷ Between 1906 and 1914, when Lloyd George, Churchill and Sydney Buxton took office, the Board of Trade made intervention in 10 per cent of all industrial disputes, 85 per cent of which were reckoned to be 'major' problems.⁴⁹⁸ There were few trade union representatives appointed as arbitrators and conciliators and the majority of them were dominated by professional or upper classes like lawyers, architects and senior civil servants, who carried out bargaining procedure on the basis of 'the basic factors of supply and demand governing prices and costs within an competitive economy'.⁴⁹⁹ Howell has argued that the Board's initiative to set up industrial relations institutions had an administrative purpose to overcome the collective action problem, which was rooted in decentralised market structure based on fragmented ownership of small producers. By this means, the Board of Trade, taking a leading role to reach national or industry level collective agreement rather than introduce direct state regulation, forged the ground of

1978, pp.115-6

⁴⁹⁶ Redman, 'Knowledge is Power?', pp.9-17

⁴⁹⁷ R. Davidson, 'The Board of Trade and Industrial Relations, 1896-1914', *Historical Journal*, vol. 21, 1978, pp.577-8

⁴⁹⁸ R. Davidson, 'Government Administration', in Wrigley(ed.), op.cit., pp.166-9

⁴⁹⁹ Davidson, 'The Board of Trade', pp.579-89

increased managerial authority, which by promoting harmony with trade union officials, was successful not only in undermining autonomy of shop floor, but also in gaining control of the labour process. This construction of industrial relations institutions rendered easier industrial restructuring through mergers and transition to bureaucratic management, which heralded the rapid modernisation and rationalisation in the 1930s.⁵⁰⁰

In the case of sweated industries, which were inept to form sufficiently strong industrial organisations, the National Anti-Sweating League made an effort to enact the Trade Boards Act of 1909, by which trade boards constituted by employers and union representatives along with officials set ‘industry-specific’ wage floor and conditions. These conclusions of bargaining institutions were legally bound and expected to improve efficiency of trade, which ultimately turned them into the autonomous procedure of collective bargaining. The Board of Trade was initially sceptical about the idea of compulsive measure, but Churchill introduced a bill as a deterrent to market failure in four industries – chain-making, tailoring, paper-box making and lace.⁵⁰¹ Thompson has shown that marginalist economists such as Marshall and Pigou developed the popular intellectual discourse of the high wage theory, insisting its practical efficacy of enhanced productivity in relation with improvement in supply factors. In this discourse, the politics of minimum wage gained its support especially among the heterodox economists such as the Webbs and Hobson for ‘denunciation of parasites as a hallmark of radicalism’. The discursive dominance of high-wage theory made the progressives acknowledge the

⁵⁰⁰ Howell, op.cit, Ch.3

⁵⁰¹ S. Blackburn, ‘Ideology and Social Policy: The Origins of the Trade Boards Act’, *Historical Journal*, vol. 34, 1991, pp.43-64

limited setup of trade boards as the means to produce efficiency gains.⁵⁰²

It is worth noting that before 1914 the British progressive movement developed the voluntary function of trade unionism side by side with their increased demands for statutory regulation. The Labour party endorsed and entertained collectivist reforms such as minimum wages, unemployment relief, eight-hour day and old age pension, particularly after the affiliation of the Miners' Federation of Great Britain (MFGB), whose aim was nationalisation of coal-mining. While administrative costs of collectivist reforms were reckoned to be covered by Lloyd George's 1909 fiscal policy based on progressive taxation, the TUC was still kept suspicious about social reforms, as they had possibility to emasculate their industrial action and aligned themselves with the Liberal programmes of Lords' veto, free trade and Home Rule in the 1910 general election.⁵⁰³

When severity of industrial unrest upset the Liberal administration, socialists campaigned for the statutory regulations like the national minimum, as they were frustrated by partial procedure of collective bargaining.⁵⁰⁴ In particular, experience of large-scale stoppages in railway, coal-mining and engineering made it more likely for the Board of Trade to introduce some coercive regulations to limit the harm upon national economy. However, rather than adopting the statutory minimum, they reacted to problems of national emergency by expanding the scope of the 1896 act, as Churchill established the Standing Court of Arbitration in 1908 and Buxton the Industrial Council in 1911. Both were aimed at forming the formal and standing machinery of collective bargaining, but failure of these national or industry-wide tribunals revealed incompetence of the Liberal administration

⁵⁰² Thompson, 'Political Economy', pp.63-87

⁵⁰³ Pelling, *op.cit.*, pp.113-7

⁵⁰⁴ Reid, *United We Stand*, pp.228-9

to intervene in industrial disputes, which led to their enactment of minimum wages by the Coal Mines Act of 1912 under the pressure from the Miners' Federation. In his imposing title, *The Strange Death of Liberal England*, George Dangerfield argued that the pre-war industrial unrest was a series of producers' rebellion against the New Liberal collectivist principle. With the deadlock of consumerist politics, the mid-Victorian humble watchword of working-class respectability – 'a fair day's pay for a fair day's work' – was overthrown.⁵⁰⁵

While the demise of free collective bargaining increased the importance of political influence of federative bodies of employers and employees, the process resulted in the separation of interests between producers and consumers, insomuch as the New Liberal organicist approach of collective *laissez-faire* aimed at efficacy of market function – equilibrium between supply and demand for labour – by the state-tailored collective bargaining. Radicals did not see the New Liberal reforms as promoting the 'national' interest, but as programmes encouraging well-organised labour to turn away from the residuum.⁵⁰⁶ The federative business of trade unions caused the gulf between union and non-union workers. Hence, contractual terms defined in the procedure of collective bargaining would not guarantee 'the welfare of the community'. This view was promulgated by the Webbs, whose *Industrial Democracy* was first published as early as in 1898. They believed that the federative operation of collective bargaining would fail to carry out equality and fraternity, because in such a 'system of natural liberty', it was consumers, not producers, who reaped direct benefits from products of free and independent labour. On the other hand, producers were exposed to increased pressure of

⁵⁰⁵ G. Dangerfield, *The Strange Death of Liberal England*, New York, 1935, pp.190-4

⁵⁰⁶ Clarke, *op.cit.*, pp.173-4

competition and only those in well-organised unions could obtain rewards, since ‘whenever the economic conditions of parties concerned are unequal, legal freedom of contract merely enables the superior in strategic strength to dictate terms’.⁵⁰⁷ In manipulation of rules, prices and distribution, they could not only oust new competitors, but were free from pressure of competition, which resulted in disrupting ‘freedom of trade’.⁵⁰⁸ The institution of collective bargaining, hence, due to its monopolistic position, clogged up the operation of a free market of labour, which would guarantee common level of wage rates as much as ‘perfect competition’. With emphasis on the marginal non-union workers, the Webbs considered that ‘the survival of fittest, is, therefore, so to speak, the result of a high wage rate’, which took place after the substitution of manipulative regulations of collective bargaining for the right of individuals to make a bargain with employers on equal terms.⁵⁰⁹ To halt this process, it was vital to suspend trade union function of negotiating wage rates.

Hence, the institution of minimum wage was more practical solution than protectionism, which would undermine commercial and financial autonomy, to tackle the ‘sweating’ system and increase industrial efficiency and employment. As long as consumers demanded cheap goods, the unincorporated divisions of industries remained unrewarded but resorted to cheap labour. The latter were absorbed into parasitic conditions with meagre wages and came up against deterioration in their physique, intelligence and characteristics. The politics of the national minimum would guarantee their daily substance and raise standard of living. In this statutory minimum programme, trade

⁵⁰⁷ Webb, *Industrial Democracy*, pp.173-221, quotation from pp.217,9

⁵⁰⁸ Ibid., pp.650-702

⁵⁰⁹ Ibid., pp.710-40, quotation from p.726

unions were no longer a direct stakeholder of collective bargaining, but going to play an educational role of workers on trade issues and undertake local supervision in promotion of efficiency of trade. Through active intervention from administrative authorities, it had an effect of removing drawbacks of freedom of contract – frequent occurrence of strikes and lock-outs. The Webbs maintained that, this legislative solution, deterring federative unions from plundering non-union individuals, would secure conditions ‘necessary for efficient citizenship’ of every trade and turn unions into national service by giving up ‘all claims to autonomy’.⁵¹⁰ They saw the trade union charters of the 1870s as provision of privileges and their subordination to capitalist market economy.⁵¹¹ The legislative regulation of their right of free collective bargaining was achieved by the enforcement of a minimum standard of wage rates, by which trade unions became a part of bureaucracy operating under the universal direction of the ‘Device of Common Rule’.⁵¹²

This socialist solution to harness the free operation of collective bargaining gained a limited purchase. Snowden commended the Trade Boards Act of 1909 as a historic ‘departure from the old idea of non-interference with economic laws’.⁵¹³ Nonetheless, he bemoaned the pre-war situation of socialism as ‘the present labour representation in parliament is there mainly by the good will of the liberals’.⁵¹⁴ To gain the mass vote in the election the majority inside the Labour party chose the alliance with the Liberal party and gave support to its reform agendas before the war. MacDonald believed that deviation from the *laissez-faire* relationship between the state and the market would end up in

⁵¹⁰ Ibid., pp.796-836, quotation from pp.806,836

⁵¹¹ Webb, *History of Trade Unionism*, pp.178-9

⁵¹² Webb, *Industrial Democracy*, p.847

⁵¹³ Blackburn, op.cit., p.43

⁵¹⁴ R. Douglas, ‘Labour in Decline 1910-1914’, in Brown (ed.), op.cit., p.125

splitting not only the progressives, but also the working classes. He showed a concern about progressive's proclivity for the high wage theory, as maldistribution would become irreconcilable with organic interdependence of communal interests by leaving out disorganised labour. For good citizenship, state intervention could not achieve people's independence and direct legislative regulations would deprive the working classes of genuine enthusiasm for trade union activities. The better they received remuneration, the more deteriorated the meanings of trade unionism became, since the fundamental duty of the latter was 'something higher and wider than trade union industrial demands. It must set these demand into a system of national well-being; the wage earner must become the citizen: the union must become the guardian of economic justice'. Therefore, the state intervention had to be circumscribed to the extent, to which it did not violate individual liberty and their independence.⁵¹⁵ Admitting maldistribution of wealth as the fundamental problem of unemployment, MacDonald's gradualism was manifested in his advocacy of the right to work, which was deemed to rectify maldistribution by increasing employment through public works.⁵¹⁶

4.4 The Wartime Regime and Henry Clay

The New Liberal scheme aimed to organise industrial relations by legitimising the state-led formation of collective bargaining. Their collective *laissez-faire* system increased the amount of federative and national-level business run by employers' organisations and trade unions. This shifted the constitutional ground of collective bargaining from the

⁵¹⁵ D. Tanner, 'Ideological debate in Edwardian labour politics: radicalism, Revisionism and socialism', in Biagini & Reid (eds.), op.cit., pp.272-93, quotation from p.278

⁵¹⁶ Thompson, op.cit., pp.76-9

state's neutral to organicist approach, which sowed a seed of class politics, once the institutional materialisation failed to take a pluralist form of corporate governance. The Webbs proposed their counterprogram of national minimum against the New Liberal consumerist politics of free trade, because the federative proceedings of collective bargaining marginalised the interest of alienated producers. From this viewpoint, the central control of production enforced trade unions to abrogate their function of industrial bargaining. Hence, the Webbs praised the emergence of national bodies of trade unions as a step towards the solidarity of wage-earners facilitating the introduction of the standard rate of wages. However, the progressive tradition upheld the voluntary system of collective bargaining. Reid's study of differential sectors in shipyard societies of boilermakers and shipbuilders has suggested that despite the centralisation process, trade unions did not discard the bottom-up practice of industrial democracy from grass-root levels and their branches still could execute local or district level strikes.⁵¹⁷ He has argued that in the period of the First World War the voluntary tradition of collective bargaining was successful in limiting the authority of the state. Increased pressure from trade unions inflamed internal divisions among the state departments and provoked its indecisiveness in terms of control over the labour market.⁵¹⁸

The outbreak of the war changed the pre-war scenery of free trade voluntarism. Its prosecution necessitated the extension of state power. Extravagant expenditure and conscription led to crucial resignation from the cabinet of John Burns, who, as a staunch progressive with underlying liberal orientation, had cast suspicion against the New

⁵¹⁷ A. Reid, *The Tide of Democracy*, pp.124-179

⁵¹⁸ Reid, 'Dilution, trade unionism and the state', pp.46-75

Liberal reforms such as Lloyd George's budget and Beveridge's labour exchange.⁵¹⁹ In reaction to the shortage of skilled labour on munitions, the Board of Trade, forming the Committee of Production in 1915, took a measure to suspend proceedings of collective bargaining in non-essential industries by the Defence of the Realm Amendment Act. The pro-Lloyd George mandarins like Llewellyn Smith and Beveridge became cardinal members of the Ministry of Munitions, which took charge of directions in munitions production and regulation of labour. The Munitions of War Bill was aimed at extending Government control over war production by limiting collective bargaining. While the bill avoided prescription of compulsory terms, it imposed compulsory arbitration in cases of strikes and lock-outs. Mobility of workers was restricted without employers' certificate. Britain's voluntary culture sought 'equity of sacrifice', which, as a means of counterposition, also limited profitability of employers enforcing transference of excess profits to the Exchequer.⁵²⁰ Sharing an idea of top-down democracy with the Webbs, Beveridge was not hesitant to show his willingness to impose statutory restriction on free collective bargaining, as 'he had long believed that the interests of the state and community should take priority over the interests of individuals'. The act was 'merely a pale shadow' of what Beveridge propounded in advance, as he thought 'in peacetime the employers were generally top dog and so my business was chiefly to prevent the employer from exploiting his advantage unduly. In wartime the workman is top dog, and therefore my business (for the State) is to prevent the workman from exploiting his advantage unduly'.⁵²¹

⁵¹⁹ Brown, *John Burns*, pp.177-82

⁵²⁰ J. Thompson, 'Labour Movements, Trade Unions and Strikes', in *International Encyclopedia of the First World War 1914-1918 Online*, Apr.2017, pp.4-6

⁵²¹ Harris, op. cit., pp.199, 206-7

Reid has insisted persistence of the traditional voluntarist solution during the war-time negotiation. The act finally compromised after trade unions demonstrated their antagonism against industrial conscription with a strong influence of local bodies upon the process of collective bargaining.⁵²² Union constitutions continued to operate as check and balances, under which official and ordinary members could reach a consent. This well-organised democratic convention did not happen in a socialist society, where trade unions became a ‘political counsel’, as experts with occupational knowledge would seek optimal efficiency to regulate the national labour market.⁵²³ A turning point was Lloyd George’s intervention in war-time production, which changed ‘the bargaining partner for many skilled workers from private employers to the state, and opened up new opportunities for organised labour to influence conditions through pressure on government’.⁵²⁴ In light of importance of politics, an ‘idealist’ unionist, John Hill, who used libertarian rhetoric against the New Liberal reforms, demanded equal terms with employers and was determined to stay vigilant about autonomy of trade unions to defend their conventional liberty in the industrial sphere. Reid explains Hill’s radical-liberal principle as based on collective self-organisation without state-interference. Hill set out injection of virtues of humanity and social justice into market economy and private property. At the root of his rejection of economic individualism, Reid continues, there was the tradition of old Dissents.⁵²⁵ This rationale was explicit in Hill’s phrase of ‘Co-operative Commonwealth’, which drew on unified force of producers against parasitism. Hence, championed by the protestant leadership like Hill and Robert Knight, the

⁵²² Reid, *The Tide of Democracy*, pp.180-215

⁵²³ Ibid., p.224

⁵²⁴ Ibid., p.291

⁵²⁵ Ibid., pp.282-99.

voluntary framework of collective bargaining was important for craft unions to achieve the harmonious relationship between capital and labour and enable the latter to take account of company accounts. Their firm belief in industrial co-operation in the radical-liberal tradition was persistent in the Labour party's *New Social Order* after the war, in which industrial organicism was crucial for production and for equitable distribution of wealth.⁵²⁶

For the government it was necessary to keep a close tie with trade unions. With the help of Labour M.P.s they strived to maintain 'business as usual' by curbing outbreaks of trade disputes. In the process of 'dilution', which complemented unskilled to skilled labour to cope with shortage of labour in munitions production, rational management was adopted for labour control. Restructuring labour process by revision of manufacturing process, demarcation and demands for labour, installation of machinery, the government attempted to change significantly the conventional practice of industrial relations in Clydeside engineering and shipbuilding industries. Melling has argued that under the authority of the Munitions Act, roles of supervisory workers and foremen in these industries were shifted from customary responsibilities to 'ambassadors of a servile state as well as the agents of unwelcome innovations'. In response to order from the state they imposed new industrial discipline on rank-and-files.⁵²⁷ The inflationary rise of cost of living during the war, climbed by degrees from the pre-war period, depressed payment and conditions of such clerical and technical workers and give them an incentive to form 'white-colour' unions calling for wage increase with other working classes. In particular,

⁵²⁶ Ibid., pp.284, 322-3

⁵²⁷ J. Melling, "Non-Commissioned Officers': British employers and their supervisory workers, 1880-1920', *Social History*, vol.5,1980, pp.214-6

they participated in the campaign against the government for a 12.5 per cent bonus to skilled workers in engineering, whose wage rates were on the whole fixed at pre-war levels. Reid has shown that corporate activities in the war-time between trade unions, employers' organisations and the state did not bring out homogeneity of experience. In terms of the working class, historiography diverged into two models – on the one hand, there were social democratic interpreters, who pointed to the rise of the benign state conducting social reforms from above. On the other hand, revolutionary interpreters gave an emphasis upon persistence of serious conflicts between officials and rank-and-files. Rather, Reid has argued that a salient point was that the most outstanding war-time working-class experience was the rapid spread of trade unionism, which was accompanied by the stronger institutional framework of collective bargaining.⁵²⁸

Beveridge's decision of intervention to restrict freedom of labour during the war led to further marginalisation of industrial employers. With the establishment of the Ministry of Labour in 1916, state officials who were responsible for the war-time administration of labour issues sidestepped employers' demands and carried out sympathetic negotiations with trade unionists at both national and local stages. Reid has argued that in engineering and shipbuilding, at both national and local levels, 'many workers now felt themselves for the first time to be direct employees of the state and almost all were entering into the new experience of successful bargaining with the government over wages, hours and working conditions'.⁵²⁹ The strong initiative of the state in the process of collective

⁵²⁸ 'Figures for total union membership indicate an increase from 2.5 million to 4.0 million during the pre-war boom, from 4.0 to 6.5 million during the war itself, rising again to over 8.0 million by 1920, that is, a more than threefold increase over the decade 1910 to 1920'. (A. Reid, 'The Impact of The First World War on British Workers', in R. Wall & J. Winter (eds.), *The Upheaval of War, Family, Work and Welfare in Europe, 1914-1918*, Cambridge, 1988, p.227)

⁵²⁹ Ibid., p.229

bargaining was further promoted in chemicals, road transport, wool, railways, coal-mining and public sectors. In confrontation with the serious curtailment of employers' influence in workplace, Charles Macara, the president of the Master Cotton Spinners' Federation and the Employers' Parliamentary Association (EPA), established the Central Association of Employers Organisations in 1915 to 'afford a means for bringing the industrial interest of the country as a whole into close relation with the government'.⁵³⁰ After merging Dudley Docker's British Manufacturers' Association (BMA), he formed the Federation of British Industries (FBI), in which free traders from the EPA provoked an internal division with protectionists from the BMA. The EEF declined its affiliation to the FBI, since its leader, Allan Smith, did not agree with the FBI's policy to cultivate strong relationship with trade unions. The EEF, hence, built an independent channel with the Ministry of Munitions, though they failed to stop Churchill from announcing the 12.5 per cent bonus.⁵³¹

Behind Lloyd George's coalition government, there was the business interest group. For instance, Eric Geddes, who used to be a deputy manager of North-Eastern Railway, was appointed to the Minister of Admiralty, after successful as a deputy Director of the Munitions Supply in multiplying and speeding up munitions production.⁵³² When the Conservative ministers expressed their stronger aspiration for production than consumption, which Newton and Porter saw as pulling down the free trade axiom, they opted for interventionist policies in industrial relations.⁵³³ The FBI and EEF strived to

⁵³⁰ J. Turner, 'The Politics of "Organised Business" in the first world war', in J. Turner (ed.), *Businessmen and Politics*, London, 1984, pp.34-5

⁵³¹ *Ibid.*, pp.33-41

⁵³² P. Cline, 'Eric Geddes and the "Experiment" with Businessmen in Government 1915-22', in Brown (ed.), *op.cit.*, pp.74-87

⁵³³ Newton & Porter, *Modernization Frustrated*, p.33

exert their influence upon the government via a channel of such businessmen ministers. The FBI's labour sub-committee issued a report about rationalisation and reorganisation of industry. While they aimed to launch a welfare system under the joint administration between employers and trade unions and restrict the state interference to the minimum, the EEF insisted that the expense of welfare was unbearable for export industries struggling in foreign markets. Hence, it was a role of the state to bear its financial outlay. Setting up the National Confederation of Employers' Organisations (NCEO), Smith gained FBI's assent not only to give up their claims, but also to take a common counteraction against the pro-trade union policies of the Ministry of Munitions. They later agreed to form the British Commonwealth Union for the purpose of reconciling their differences in political creeds and its proposal gained a support from business interests insomuch as they took a lead in anti-socialist campaigns.⁵³⁴ Despite their political accession, there was still a latent division in terms of economic policies. Macara clung to the belief that it was still requisite to set up an independent machinery, which enabled both capital and labour organisations to form co-operative relationship, since 'much of the labour unrest that exists today has been engendered by the intervention of politicians, leading labour extremists to encourage the workers to make unreasonable demands, which, if agreed to, would ultimately be disastrous, not only to employers, but also to the workers themselves'.⁵³⁵ The war-time framework of compulsory arbitration ended up in dismissal of counselling capacity of practical advisors and this perversely led to inefficiency of trade.⁵³⁶ In his mind, the Industrial Council of 1911, consisting of the

⁵³⁴ Turner, op.cit., pp.43-9

⁵³⁵ C. Macara, *Social and Industrial Reform, Some International Aspects*, Manchester, 1920 (first pub. 1918), p.222

⁵³⁶ Ibid., pp.119-35

chairman and equal numbers of experienced delegates from capital and labour organisations, was the archetype of co-operative machinery, insomuch as it satisfied, what he thought, three principles of criterion for industrial peace – the board of arbitration with practical men concerned, management of each industry on the basis of wholesale, rather than separate interests and conviction of public opinion for verdicts.⁵³⁷

The war-time production policy by the coalition government upended the bias of industrial organisation from consumption to production. In the pre-war New Liberal policy, which was based on consumerist politics of free trade, the state intervened in industrial relations for the sake of the public interest by bringing out efficacy of market economy. The state, tailoring the standing framework of collective bargaining, mediated in industrial disputes and sought to comply with public opinion by employing statistic accounts. In the case of labour exchanges, labour market was organised under the state's control by way of taking a balance of its supply and demand with the help of public opinion. Implementation of these schemes was considered to complement the liberal tradition of free trade, whose voluntary culture had been successful in economic coordination on its own. In terms of championing free trade, the New Liberal state intervention was carried out on behalf of the interest of consumers. However, as Beveridge acknowledged, the Munitions of War Act of 1915 turned the New Liberal premise of state intervention upside down into the interest of producers, whose conformity was vital for the national interest. In the Treasury Conference, officials from craft unions from engineering, shipbuilding, boiler-makers and pattern makers, acceded to suspend its conventional practice of controlling regulations of production and their

⁵³⁷ Ibid., pp.267-72, 317-8

rights to strike in return for maintenance of wage rates and restoration of union rules after the war. Such war-time cessation of labour market, which Sharp expressed as ‘first departure from the prevailing system of voluntary settlement of trade disputes’, led to endorsement of full recognition of trade unionism, but provoked an irretrievable discord between national and local union representatives, who were discontent with compromising attitudes of their officials and especially with the Section 7 of the Act regarding the leaving certificate system.⁵³⁸ Despite the pressure for more restrictive measures from the employer side, the coalition government decided to adopt a pro-labour amendment. The Munitions of War Amendment Act removed the notorious Section 7 and promised involvement of shop-floor level bargaining with a temporary rise in wage rates by expanding definition of munitions work.⁵³⁹ As a result, the government officials were sanctioned greater authorities to fix wage rates by the administrative order after setting up the Special Arbitration Tribunal.

The aftermath of such a productivist turn of the organicist framework caused a serious concern among contemporaries. As mentioned above, the interest of industrial employers was kept out of the state bargaining procedures and their role was reduced to mere government agents. It is questionable that under this circumstance, the *bona fide* framework of voluntary collective bargaining was retrievable, if co-operative relationship between capital and labour was reinstituted, for which Hill and Macara aspired. With the publication of *The Problem of Industrial Relations* in 1929, Henry Clay, a liberal

⁵³⁸ Sharp, op.cit., p.310

⁵³⁹ ‘They were industries relating to the manufacture of any class of ship under a Board of Trade certificate, the erection of construction works, docks and harbours under Admiralty certificate, the supply of light, heat, waterpower, tramway facilities, and the erection of buildings, machinery and plant, and the repair of fire brigade appliances under certificate of the Minister of Munitions.’ (ibid., p.311)

economist who had been a temporary civil servant in the Ministry of Labour between 1917 and 1919, sought to reveal problems of economic liberalism after the experience of the war-time regime. Clay developed his argument by attributing an immediate cause of industrial problems to ‘failure to agree on a price’ between sellers and buyers. The pre-war customary practice of collective bargaining had helped to set standards adjusting to economic changes and its network ensured coordination of wages and conditions in different industries. Such stable system of customary relations was dislocated, once it faced a significant increase in prices, and this change resulted in undermining the pre-war bases of wage rates and caused inequalities between different industries. In this condition, federal organisations of trade unions became highly influential in determining wage rates, since there was a shift in the basis of bargaining to its bargaining strengths from the acceptance of custom. The outbreak of the war intensified this tendency of collective bargaining ‘until the pre-war customary basis was almost lost’.⁵⁴⁰

The administrative order to fix wage rates during the war halted the spontaneous mechanism of collective bargaining – adjustment of wage rates to economic changes. In consequence, the arbitration scheme lost its credibility from trade unions, as the cost of living continued to increase. However, the influence of government interference was so significant that other voluntary settlements were to follow precedence of national awards.⁵⁴¹ The Munitions War Amendment Act did not prescribe the provision of 12.5 per cent bonus apart from time-workers, but claims for corresponding advance were pressed from piece-workers and led the Committee of Production to extension of the

⁵⁴⁰ H. Clay, *The Problem of Industrial Relations and other lectures*, London, 1929, pp.14-8

⁵⁴¹ *Ibid.*, pp.33-6

bonus.⁵⁴² Sliding scales in the iron and steel industries were paralysed and became inoperative, once the government fixed maximum prices for the products to restrain wage increase. It was possible to say that the conventional method of collective bargaining was preserved, since its process was operated by employers and employed with the Committee of Production as an independent arbitrator, but 'in fact the normal control of wages had broken down'.⁵⁴³ The state became the 'real employer': 'wage regulation... had become one of the most important functions of Government'.⁵⁴⁴ Since there was no uniform body controlling wage rates, wage standards were varied at the behest of departments and under their strong pressures perfect coordination was hardly secured:⁵⁴⁵

On many occasions the Cabinet listened to an appeal from a contracting department or a trade union, and overruled a decision that had been dictated by the policy of co-ordinating wage settlements. ...the Cabinet was not primarily or continuously a wage fixing authority; it did not understand, or, if it did, could not be relied on to bear in mind, the reactions which an isolated decision might have on wage demands that were not before it; it was influenced by considerations of political expediency rather than considerations of consistency in economic policy; its decisions, therefore were frequently illogical and inconsistent with one another, and represented rather concessions to the strength of the group demanding them than a recognition of the reasonableness of their claims.

Despite the clause to restore the pre-war conditions, a fair adjustment to the commercial basis before the government interruption was unlikely to take place. In the light of the interest of consumers, the government forced employers to bear what strikers claimed for the increased wage rates. Transient war conditions increased demands for munitions production, which precipitated a shift from export industries to those of home and military

⁵⁴² Ibid., pp.45-6

⁵⁴³ Ibid., p.48

⁵⁴⁴ Ibid., p.59

⁵⁴⁵ Ibid., p.62

consumption. Maldistribution of labour occurred after such changes in wartime demands. In the post-war period, these expedient movements caused a difficulty in adjusting particular wage rates to efficient standards.⁵⁴⁶ Without coordinative action between the government, the General Council of the TUC and Confederation of Employers' Organisations, withdrawal of wartime advances resulted in industrial disorder with revelation of malfunctioning sliding scales. To put brake on bureaucratisation, which rendered officials eligible to impose responsibility upon representatives from employers organisations and trade unions to conduct government programmes, such coordination was important. Therefore, Clay, based on the Whitley report, considered that dissolution of the state control in the post-war normalisation consisted in the Joint Industrial Council as an official standing consultative body between the state, employers and trade unions. The framework constituted 'a public and official recognition of trade unionism and collective bargaining as the basis of industrial relations'.⁵⁴⁷ It aimed to resuscitate voluntarism, which meant to utilise 'the practical knowledge of the workpeople', but was to operate on the 'national' basis and the Treasury and Ministry of Labour were attended to all councils. The issue at stake was to establish 'clearly defined and generally accepted standard rates' or 'the legal enforcement of a particular wage' in case of Trade Boards, without which the labour market was muddled by frenzy of unscrupulous bargaining. Despite apathy from well-organised unions, the extension of organised collective bargaining helped to improve industrial organisation among unskilled and semi-skilled labour, which reduced disparity in bargaining strengths between industries and facilitated to define effective standards of wage rates. It also determined to provide job-training and

⁵⁴⁶ Ibid., pp.95-8

⁵⁴⁷ Ibid., p.154

welfare provisions for ex-service men.⁵⁴⁸

Clay pointed out that the legislative provisions of collective bargaining, aiming at tailoring its state-centred industrial framework, which was first sanctioned by the Conciliation and Arbitration Act of 1896 and developed by the Industrial Courts Act of 1919, resulted in empowerment of the authority of the Ministry of Labour. Despite its basic voluntarist principle, the duty imposed upon the government to prevent industrial disputes began to be intolerable due to a change in public opinion, which ‘tended[s] to hold Government responsible in any failure to keep industrial peace’.⁵⁴⁹ Quoting Beveridge’s insight that, compared to unconditional contract in the nineteenth century, a load of complicate conditions was attached to it at the end of the century, Clay argued that the most difficult problems in administration of collective bargaining arose, when ‘the Government was[is] expected to prevent stoppages without making them illegal, and was[is] blamed if the parties to a dispute in an important industry persist in their disagreement and stop the industry’. When there was no ‘common will’, which the state could apply to mediation, it seemed to be an unreasonable task for the state to ascertain alternative wage rates, on which both parties could agree.⁵⁵⁰ As an expediency, the government was inclined to adopt ‘uniformity of pay for equivalent work by every means in their power’, which by the support of collective bargaining offered ‘fewest problems’.⁵⁵¹ The war-time experience, during which the government was responsible for wage rates of ‘half the workers’, showed that ‘the correlative of direct wage fixing by Government was[is] some form of industrial conscription’, insofar as no accepted

⁵⁴⁸ Ibid., pp.166-7

⁵⁴⁹ Ibid., p.186

⁵⁵⁰ Ibid., pp.192-3

⁵⁵¹ Ibid., p.194

principle or standard of remuneration was available.⁵⁵²

This tendency of public opinion to call for industrial peace by state intervention meant the *laissez-faire* relationship between the state and markets was discredited, while the government was required to justify its action by referring to a justifiable principle. Clay believed in compulsory collective bargaining as the means to secure equality and preserve the bottom line of social wealth.⁵⁵³ With the progressive taxation, which would provide equality in consumption and social services for the lowest-paid workers, the government would be able to interfere with material conditions of the people short of breaching the essential bulwark of *laissez-faire* policy.⁵⁵⁴ Nonetheless, in contrast to the Labour party's vision of extensive governmental enterprise, Clay's ambition as a Liberal supporter of free trade was to exclude the government interference from economic relations between producers and consumers as much as between members of a different community – in other words, the restoration of industrial democracy based on an economic community, 'the organisation of which was neither established nor maintained by governments, and the boundaries of which do not coincide with those of any State':⁵⁵⁵

...the freedom to experiment, to establish new economic relations, to prove capacity for work by doing the work is an element in economic freedom that we undervalue today only because we have forgotten that it had to be fought for. As a principle of economic policy its essentials were simple; to keep the political and the economic organisation of society distinct; to develop international trade as a safeguard of international peace; and to rely on the social authority created by the economic organisation as a check and a counterweight to the social authority, created by the political organisation, of politicians and civil servants. As contrast with Socialists, who believe that every ill can be cured by a sufficient concentration of authority, the early Liberals were the heirs of the Whigs; they distrusted any concentration of

⁵⁵² Ibid., pp.202-4

⁵⁵³ Ibid., pp.242-4

⁵⁵⁴ Ibid., pp.255-9

⁵⁵⁵ Ibid., pp.306-8

authority, and sought for checks and balances to prevent the abuse of necessary authority.

Would it be possible to re-introduce a separation between politics and economy by staving off protectionist or socialist principles and making reconciliation of free trade with the *laissez-faire* policy? Clay pointed out that private enterprise was preferred to public enterprise, since it was more economical to meet the social end. If the community agreed on necessity of regulations, they could impose certain conditions on private enterprise like the Factory Acts. Moreover, protectionist policy was prone to limit the area and amount of commercial exchange, which impaired the ‘scope for initiative and choice and the free determination of economic relations by purchase and sale’. To reimburse the Liberal tradition of egalitarian sentiment of democratic community, private enterprise was more capable to meet demands by adjusting directly to price movement, which the demand power arranged by expression of human need and desire. However, the existence of inequality or class in society would prevent sound price movements, as much as everybody’s use of the means to direct production. It was undesirable to establish legal monopolies, which the socialist principle endorsed. The concentration of public authority could exercise power to subject economic organisations to the state and bureaucratically-made inequality was more uncontrollable than that in private enterprise, since workers subordinated to public employers ended up in finding no alternative markets.⁵⁵⁶ The chief object of private enterprise was to rehabilitate individuals in the unequal society, which the *laissez-faire* state neglected, and to this end, ‘a direct pursuit of equality’ was more important than building a further network of bureaucratic organisations, which merely

⁵⁵⁶ Ibid., pp.308-11

increased duties and control of officials – ‘Capitalism abridges freedom less than the subordination of industry to a political machine that has lost its responsiveness to public feeling’. In case of industrial sectors, which required stable operation and public intervention in their character of monopoly, such as the railways, electricity, banking and alcohol manufacturing, it was preferable to avoid the direct participation by the government, considering its exertion of political interests. By setting up constitution abided by statutory rules in a joint-stock corporation, both shareholders and stakeholders could enter into agreement. Separation of economy from politics in this way could ensure distribution of wealth and encourage individual independence. Hence, Clay believed that under the progressive politics, private enterprise could make a reconciliation with the egalitarian democracy, for which Bentham and Mill aspired.⁵⁵⁷

4.5. Progressivism and Industrial Peace by J.A. Hobson

To revive economic liberalism, Henry Clay suggested the separation of economic activities from political interests, which was to be accomplished by the institutional progress of collective bargaining. The anomalous shift in the war-time production was to be backpedalled by the national framework of industrial organisation, in which the state, employers and trade unionists made adjustment to economic changes in the process of collective bargaining. An essential point of this assumption was restoration of the pre-war basis of its voluntary framework. In prospect of the post-war reconstruction, the Whitley Committee was set up in 1916 to find out a way to roll back the war-time regulation of production. Its report conformed to the principle of the Royal Commission

⁵⁵⁷ Ibid., pp.312-5

of 1894 and aimed to promote the co-operative relationship between employers and employed, in which the state assisted in organising the institutional framework of collective bargaining. On this occasion, the standing body of the Joint Industrial Council was proposed as the means to facilitate industry-level adjustments in industries, which did not have the bargaining machinery. In addition, the 1909 Trade Boards Act was amended to extend its application, which was finally enacted in 1918. Both joint industrial councils and trade boards, taking account of national conditions, provided regular opportunities to settle industrial problems. In this way, the labour market was reversed to voluntary operation of collective bargaining without direct state intervention. However, the Whitley regime, confining the latter's role into minimum, e.g. supply of information, confronted a difficulty in reimplementing the governing framework of voluntary adjustment particularly after the economic decline from the early 1920s. Despite its evasion of the compulsory measures like the legally-binding standing tribunal, the industrial court, which functioned as the last bastion of the voluntary procedure, could not establish credibility of verdicts, since its wage policy lacked consistency, wavering between criterion reckoning in haphazard fashion subsistence, fairness, or ability to pay.⁵⁵⁸

The failure of the National Industrial Conference (NIC) in 1919, which aimed to forge a national consensus of industrial regulations in hours of work, wage rates, procedure of collective bargaining and unemployment, was an ironical occasion that turned the policy of 'home rule for industry' into delusory one. Certainly, the conference's preference for strict legislative measures, such as a 48-hour week, regulatory minimum rates and the

⁵⁵⁸ Sharp, *op.cit.*, pp.358-9

establishment of a national industrial council, were unorthodox requests for reconstruction. Its dirigiste approaches to the labour market could not gain support from both the NCEO and trade unions, both of which had such divergent interests that the joint committee of the conference could not at all find a landing point. Lowe argued that rather than the extension of Whitleyism, the NIC was the ‘a prime example of Lloyd George’s “fondness for the grandiose scheme”’, which breached the premise of joint industrial councils as the ‘sole authoritative voice of an industry’. In the end, the NIC lost administrative initiatives for a good governance, since industrial democracy was no longer seen by the government as an effective means to protect national interest, but as a ‘constraint on its own authority’ insomuch as their fragmentary conditions obstructed ‘reasoned consideration’. During the interwar years, nonetheless, what the government could demonstrate was its lack of capability to overcome economic difficulty by intervening in industrial issues.⁵⁵⁹

In fact, after the day of armistice, the government initiated the process of deregulation by curtailing the wartime restrictions applied to both national production and consumption. The ‘back to 1914’ movement was buttressed by the reconstruction project under the fiscal trinity – the City, the Bank and the Treasury – to reinstate the policy of free trade in order to safeguard the international role of sterling. Deflationary pressure, which financial constraints provoked with anti-centralising sentiments, increased the importance of views of the Treasury in industrial relations institutions in place of the Ministry of Labour. The latter’s aim to tailor the national framework of collective bargaining was

⁵⁵⁹ R. Lowe, ‘The Failure of Consensus in Britain: The National Industrial Conference, 1919-21’, *Historical Journal*, vol. 21, 1978

attacked as ‘both destroy jobs by interfering in the labour market’.⁵⁶⁰ The government endorsed the Treasury to use budgetary discipline of ‘sound finance’ to limit the Ministry’s ability to accommodate industrial relations institutions. In reaction to an increased level of unemployment and unstable conditions of industrial societies, the FBI, seeking to avoid demise of progressive momentum without helps, proposed a financial pool deposited by railway profits. After the failure to introduce modernising project to nationalise transportation and electricity, Geddes by curtailing the authority of the Ministry of Transport passed the Railways Act of 1921 to secure the system of arbitration and the National Wages Board, both of which aimed for accommodation with trade unions.⁵⁶¹ However, as the deflationary policy of decontrol was advanced, the political influence of employers’ organisations were gradually diminished, despite a number of anti-socialist businessmen entering Whitehall from the Conservative party after the 1918 election. A new wave of industrial unrest arose and the Conservatives powerful in the post-war coalition took a hard-line attitude towards trade unions, sending police force to suppress strikes and enacted the Emergency Powers Act of 1920 to take management control during stoppage. When the Miners’ Federation called for national strike in demand for nationalisation and wage increases, the Sankey Commission was appointed as a buffer. The twin pillars of the Whitley regime – joint industrial councils and trade boards – were not functional as conciliatory instruments to remove underlying causes of industrial disputes.⁵⁶²

Churchill’s appointment as Chancellor of Exchequer in the second Baldwin’s

⁵⁶⁰ Howell, op.cit., p.76

⁵⁶¹ Cline, op.cit., pp.92-7

⁵⁶² Brown, *The English Labour Movement*, pp.221-2

administration assured the return to the gold standard in 1925 as the Treasury orthodoxy in finance. Overvalued sterling was forecasted to intensify economic competition at home, since it lowered price of import goods, and to make exporters disadvantageous in foreign markets. The deflationary scheme of free trade imposed considerable pressure upon industrial employers and required them to reduce costs of wage rates, which Alfred Mond, the progressive colliery owner and chemical manufacturer, saw as the ‘most fundamental cause of the industrial and political troubles in which we are involved’.⁵⁶³ In particular, its blow upon the traditional export sectors – coal, textiles, shipbuilding, and iron and steel – was significant. After the dissolution of the Triple Alliance on ‘Black Friday’ in 1921, miners lost the war-time framework, which employed the central control in a constructive way. When owners sought further reduction in wage rates and extension in working hours, the MFGB demanded statutory regulation of living wages. The General Council of the TUC promised their support by calling for suspension of railways and transport of coal trade. Despite publication of the Samuel Report after the Royal Commission on the coal industry, the negotiation reached a deadlock. The great majority of trade union delegates agreed to support miners in the congress on 3rd May 1926 and lapsed into the ‘General Strike’ from 4th to 12th, involving the number of around 2,500,000 workers from mining, printing, building, transport, iron, steel, chemical, paper, engineering and shipbuilding industries. It was obvious that the post-war reconstruction of free trade normalcy had failed.⁵⁶⁴

Lowe saw this incompatibility between the orthodoxy of free trade normalcy and producers’ proclivity for the war-time anomaly as a clue to disclose Britain’s lack of

⁵⁶³ Newton & Porter, op.cit., pp.59-60

⁵⁶⁴ Ibid., p.60

corporate nature. British government's decline to ratify the international treaties of reduced hours of work, which was advanced in the mood of post-war reconciliation particularly after the establishment of the International Labour Organisation (ILO), demonstrated their problem of industrial practice based on free collective bargaining to conform to standardized regulations. From their rejection of the NIC to that of both the original and amended version of the Washington Hours Convention at the ILO, the government could not impose 'corporate bias' by gaining consents of either employers' organisations or trade unions. The dismissal of such a new international framework, however, did not mean the triumph of free trade normalcy, but the post-war dilemma persisted and was displayed by the minimalist approach of the government as much as ambivalent and strained attitudes of both parties to state intervention. Rather than the growth of the corporate state with governing institutions, their orientation towards self-governing entities succeeded in excluding the national government from coercing its managerial prerogatives to a degree that breached the neutral principle held out by the civil service.⁵⁶⁵ Rodgers has corroborated this point of Britain's exemption from the corporate commitment by examining a role of employers' organisations, particularly that of the NCEO, in the political discourse of unemployment and social politics, which was stained by the traditional repugnance towards state intervention by the modern bureaucratic system. Among the three cardinal employers' organisations in the period – the National Union of Manufacturers, the FBI and the NCEO – the latter's main apostles were from the traditional export-oriented industries such as coal, cotton and shipbuilding-engineering, hence, its strong disposition towards free enterprise and explicit antagonism

⁵⁶⁵ R. Lowe, 'Hours of Labour: Negotiating Industrial Legislation in Britain, 1919-39', *Economic History Review*, vol.35, 1982, pp.254-71

against socialism. As a remedy for the problem of unemployment, it demanded reduced costs of production not only by lowering the standard wage rates, but by containing post-war development of social welfare, whose burdens were imposed upon industries. Including its withdrawal from the NIC, its strident class-conscious strategy was inclined to omit the consensus-making process in political and industrial co-operation, to which the FBI and trade unions were more attentive. Hence, in collaboration with the Conservative M.P.s, the NCEO took a hard-line attitude to the Labour-TUC proposals for public works. Its rationale was to consummate the 'social decommodification' of the labour market by reinvigoration of enterprise, competitiveness and the healthy economy.⁵⁶⁶

From the time when New Liberals instilled the sense of idealist state as a bulwark of economic liberalism, the New Liberal engagement in the economic policy of free trade was no longer grounded on the state's neutral, but on its organicist approach to market economy. Organising the voluntary framework of collective bargaining, the state played an arbitrary role to preserve the public interest by intervening in industrial disputes and adopting scientific methodology predicated on the marginalist gloss. Officialdom, upholding the principle of free trade, implemented legislative institutions to organise nationally-managed labour market and provide social relief. The exigencies of the war, however, necessitated the state to handle the constitutional status of free collective bargaining to meet the national interest. This changed the state's attitude to intervention in market economy from consumerist politics to accommodating the interest of national production. The wartime execution of statutory laws to regulate labour market resulted

⁵⁶⁶ T. Rodgers, 'Employers' Organisations, Unemployment and Social Politics in Britain During the Inter-war Period', *Social History*, vol.13, 1988, pp.315-41

not only in substantial incorporation of trade unions, as granting them full recognition, but also in curtailing liberal disposition of industrial employers, since it undermined their influence in the procedure of collective bargaining. The national-level framework of collective bargaining frustrated the latter, particularly those, who were exposed to the increased pressure of economic competition and located outside the consideration of national interest. Despite their rejection of coordinating framework of post-war internationalism, the voluntary operation of collective bargaining was no longer conducive to the pre-war condition of securing the public interest. In place of pluralist governance, the organicist policy to organise national production ended up in substantial deprivation of autonomous function to regulate production from trade unions, which, absolved from corporate responsibility, were driven to claim against the government to protect their sectional interests after the war. Therefore, in condition that the reversal movement to free trade normalcy collided with trade union predilection for the war-time anomaly, it was imperative for the employers' organisations like the NCEO to restore the liberal relationship between the state and market by reconstructing the co-operative relationship with trade unions.

After the general strike in coal-mining, the dominant mood of the industrial circle moved towards co-operation. However, rather than calling for industrial peace having recourse to the liberal voice of public opinion as an economic navigator of the consumerist interest, the new co-operative movement was based on industrial rationalisation, which aimed to increase industrial efficiency in line with reduction in costs of production.⁵⁶⁷ The key protagonist of this co-operative movement was Arthur Steel-Maitland, a Balliol alumnus,

⁵⁶⁷ G. MacDonald & H. Gospel, 'The Mond-Turner Talks, 1927-1933: A Study in Industrial Co-operation', *Historical Journal*, vol.16, 1973, pp.808-9

who became the Minister of Labour in Baldwin's second administration. On labour questions, Steel-Maitland wrote his essay for Conservative tariff reformers in 1908. He argued that under the modern system of limited liability, the *laissez-faire* economy, which prospered by abolition of old regulations, was in need of reform adapted to the changed conditions, since 'i[I]n this instance the theory that the individual was best left to look after his own interests has been found falsified in practice, both as regards the individual himself and the community in which he lives'.⁵⁶⁸ With feverish imperial ambition, Steel-Maitland saw that the free trade theory was reduced to free import theory and that, hence, imperial organism was required to build the empire of free trade on the basis of the neo-mercantilist system. Since, in this perspective, the advance of imperialism was complementary to that of social reform, his devotion to New Liberal labour legislation was outstanding in the Conservative party before the war: he was an active Conservative member of the National Anti-Sweating League and assisted enactment of the Trade Boards Act of 1909. While upholding state intervention as necessary, he was suspicious about public works. Rather, as the Minister of Labour, he insisted on the importance of industrial reorganisation and linked the problem of unemployment with improvement in industrial efficiency. This was what Steel-Maitland saw as the orthodoxy and was predicated on industrial protection through tariff reform: the return to the gold standard was malevolent insomuch as the policy of public works was impractical. To keep the state at an arm's length from management of industry was Steel-Maitland's salient point of industrial reorganisation. Distinguishing from socialist solution, he felt that after the general strike, industrial rationalisation had to be carried out as the basis of higher

⁵⁶⁸ A. Steel-Maitland, 'Labour', in Lord Malmesbury (ed.), *The New Order*, London, 1908, pp.343

productivity for reconstruction of industrial co-operation. In this framework, the only role of the government was to act as an 'honest broker'.⁵⁶⁹

While the Lore Weir of the NCEO saw that deregulation of trade union restrictive practices was essential for new technological developments, trade union leaders such as Bevin, Pugh, Citrine and Hicks, the president of the TUC, wished for seats in managerial boards to discuss not only wages and conditions, but also general commercial issues with their employers. In addition to the fear from rationalisation process, trade unions at that moment suffered repercussions of the general strike, which were tangible in wage reductions and huge decline in the number of union membership. For business leaders from the NCEO and FBI, TUC's consent on co-operation was beneficial, as it was prerequisite for their aspiration for industrial self-government to divert the TUC from making political appeals via the Labour party. Alfred Mond took a lead in his Imperial Chemical Industries to introduce rationalisation programme and negotiated with the TUC to hold a meeting for discussion about industrial reorganisation and future industrial relations with thirty-nine leading industrialists from large-scale enterprises. The Mond-Turner Talks started in January 1928. It acknowledged the trade union status and decided to establish a standing wholesale body of collective bargaining – the National Industrial Council composed of representatives of the TUC, FBI and NCEO and the Joint Conciliation Board in case of expediency. Notwithstanding oppositions from some union leaders, the General Council of the TUC granted approval for the report. On the other hand, majority members in both the NCEO and FBI decided to oppose the report, since they were still reluctant to give recognition to trade unions and allow them to intrude into

⁵⁶⁹ Green, op.cit., Ch.3

either existing industrial relations machinery or their own managerial rights. In particular, antagonism towards the TUC shown by the EEF faction of the NCEO was so significant that the NCEO was eventually reduced to a limited role in a compromised form of a co-operative committee and finally expressed opposition to the FBI's initiative as much as to joint-talk with the TUC on the matter of industrial rationalisation and unemployment, since the EEF held a firm belief that 'the discussion of labour displacement due to rationalisation would constitute an invasion of management prerogative'.⁵⁷⁰

By promoting industrial reorganisation and adopting methods of scientific management, the progressive movement no longer fell back on the impersonal force of market economy, but replaced it with what Newton & Porter called the 'visible hand' of producers' alliances.⁵⁷¹ If its productivist evolution run counter to the consumerist rationality of 'countervailing power of the public', then could the tradition of British democracy – party politics and parliamentary system – contain the progress of corporate politics and become a safeguard of the classical theory of free trade voluntarism? Trentmann has already argued that in the growing mood of international co-operation the post-war internationalism undermined the pre-war liberal confidence in unilateral free trade. In face of international trusts and oligopolistic conditions of world markets, new internationalism increased the role of politics in commerce for national defence and the international institutions like the League of Nations were expected not only to harness global capitalists but to regulate and stabilise trade relations between sovereigns. In this process, since each government was integrated into the system of economic blockades, freedom of trade was no longer deemed to be viable order, but equality of trade, in which

⁵⁷⁰ McDonald & Gospel, op.cit., p.828

⁵⁷¹ Newton & Porter, op.cit., p.61

promotion of welfare collectivism came together with the rise of economic nationalism.⁵⁷²

True, the Mond-Turner Talks was an imperial project launched by business interests in the Conservative party. Mond advocated a post-war programme of imperial unity under the auspices of economic protectionism. Producers demanded in the report influx of currency and flexible credit in British economy, both of which Churchill was going to limit by undermining the remit of the Bank of England, facilitating international movements of gold. Their incongruency with free trade normalcy made the committee exert pressure on industrial policies of the government and on the TUC to renounce its commitment to free trade. In this respect, the progressive movement took on an aspect of party politics.⁵⁷³

Despite the fact that the New Liberal class politics encouraged defection of business interests from the Liberal party in defence of property, it is misleading to give a too much emphasis on the decline of the pre-war progressive politics. The Liberal party was still backed by industries, which benefited from the economic policy of free trade.⁵⁷⁴ After the breakdown of Lloyd George's coalition government Liberals' main economic concerns were about the increased war debt and its provocation of inflation. Since their war-time experience led to inefficacy of state intervention, the Liberal party oriented their industrial policy to minimisation of intervention, in which they identified communal interests with those of consumers.⁵⁷⁵ They did not prioritize the reconstruction of co-operative

⁵⁷² F. Trentmann, 'After the Nation State: Citizenship, Empire and Global Coordination in the New Internationalism, 1914-1930', in K. Grant, P. Levine & F. Trentmann (eds.), *Beyond Sovereignty, Britain, Empire and Transnationalism, 1880-1950*, London, 2007, pp.34-53. Trentmann, 'The strange death of free trade', pp.235-50

⁵⁷³ McDonald & Gospel, op.cit., pp.821, 827

⁵⁷⁴ G. Searle, 'The Edwardian Liberal Party and Business', *English Historical Review*, vol.98, 1983, pp.28-60

⁵⁷⁵ J. Thompson, 'The Liberal Party, Liberalism and Trade Unions, 1906-24', *Cercles*, 21, 2011,

relationship between employers and employed, as W.T. Layton saw the post-war situation optimistically in expectation of the growth of international consensus through the establishment of the League of Nations. For Liberals, as a champion of free trade the rise of protectionism under the Baldwin's Conservative party was an antagonistic political cause. However, the irrecoverable schism between factions of Lloyd George and Asquith exacerbated their hardship of political weakness.⁵⁷⁶ Against the Conservatives, centrist Asquithian Liberals like Viscount Grey aimed to rebuild the progressive alliance with rank-and-file unionists. Its post-war framework rested on making a commitment to international coordination, which, in contrast to what Grey labelled Lloyd George's 'madcap finance' based on his anti-landlord radicalism, was expected to facilitate a balanced budget, lower taxation and improvement in national credit. In the conference held by the League of Nations Union, of which Grey was the president, liberals agreed that a boost in production, rather than fair distribution of wealth, was the foremost means to secure industrial peace, as reduction of costs led to an increase in wage rates, shorter hours of work and fuller employment.⁵⁷⁷ Such progressive re-concord was soon disrupted by the economic depression. In the 1929 election, the economic policy of free trade was a technical matter of politics rather than the doctrine of economic liberalism.⁵⁷⁸ Later on, Lloyd George's more interventionist and statist approaches to welfare and economy

pp.35-6

⁵⁷⁶ M. Bentley, 'The Liberal Response to Socialism', in Brown (ed.), op.cit., pp.52-63

⁵⁷⁷ *Towards Industrial Peace on Systems of Fixing Minimum Wages and Methods of Conciliation and Arbitration*, London, 1927, pp.14-5, 98-9, 147, 150, 240. The conference concluded that the national wealth was accumulated by sustenance of the economic nexus, which was underlined by the post-war international regime after the Treaty of Versailles. Since threats to industrial peace made its possible loss, legislative measures like compulsory arbitration gained strong support from participants. Gilbert Murray insisted that 'from an industrial war, as from military war, neither side emerges without ruinous loss'. (pp.216-7)

⁵⁷⁸ Howe, op.cit., p.281

became Liberal party's cardinal policy in its manifesto, *We can Conquer Unemployment*. Its scheme was based on suggestions of J.M. Keynes, who believed that there was fallibility in the long-established liberal principle – enlightened self-interests always operated for the sake of the public interest; that it was time to determine what the state would 'take upon itself to direct by the public wisdom, and what it ought to leave, with as little interference as possible to individual exertion', because it was 'not true that individuals possess a prescriptive "natural liberty" in their economic activities'.⁵⁷⁹

Meanwhile, the Labour party under the leadership of MacDonald began to succeed the radical wing of the liberal tradition. In the general elections of the early 1920s they outstripped the Liberal party as the direct political opposition to Conservative protectionism. They remained opposed to the imperial tariff system and adhered to the principle of free trade. Their general policy of 'gradualism' was persistent as the official line until the *Labour and the Nation* of 1928, which revised the radical agenda of *Labour and the New Social Order* of 1918. It was based on a minor modification in the war-time control and advocated central management of production and consumption. To achieve goals of full employment and wholesale operation of collective bargaining, it required extensions of public ownership and control of production to provide services of nationalised industries – coal, railways, and electricity – in cheaper prices, as much as import control to protect price structure. In this sense, the principle of free trade was upheld not so much to propel competition as to lower prices and to ensure minimum standard of life. Given Labour's strong tie with trade unions and adherence to high wages, stable employment and welfare policies, imposition of capital levy on high incomes and

⁵⁷⁹ J. Keynes, 'The End of Laissez-Faire', *Essays in Persuasion*, London, 1971 (first pub. 1931), pp.287-8

profits was sought to cover budgetary deficiencies. To remove trade barriers standing off Britain's traditional staple industries like coal, textiles, shipbuilding, and iron and steel, instead of protectionism, they resorted to international organisations such as the League of Nations and ILO for setting world standards in wages and regulations of economic conditions including tariff negotiations.

However, in practice, when the Labour party was in power, they did not conform to the manifestoes. After the experience of failure, the Second Labour administration turned to industrial rationalisation, which had long been abhorred as monopoly of production. Distinctions from the Conservative proposal have to be made in terms of their rejection of a subsidised model of the Mond-Turner scheme, their countenance of sound finance and their desultory outlook for newly emerging industries like automobiles. To ensure consistency with free trade, they strived to develop economic internationalism to boost export industries. Without intentions to cut costs of production and public expenditure, the Labour version of industrial rationalisation was, in short, the means to make traditional industries – coal, cotton and iron and steel – more effective and competitive, but in denial of direct state intervention its progress was largely contingent on self-managements of business and banking, which ended up in arousing trade unionist resistance showing a deep concern over worse conditions of their employment. Snowden, the Chancellor of Exchequer, was obstinate in fiscal austerity and opposed the introduction of either import controls or tariffs for planned production, which the TUC endorsed in 1930. The party's loyalty to the fiscal orthodoxy resulted in its inaction of economic programmes. As the economic situation deteriorated, the ex-Liberal M.P.s began to see the national government as the means to launch effective economic policy

alternative to political deadlock of the Labour administration.⁵⁸⁰ In the 1931 election, Labour's manifesto dropped rationalisation and brought back the measure of nationalisation. Since party's champions of industrial rationalisation like MacDonald and Snowden defected, it reinstated the doctrine of nationalisation on the basis of the 'profoundly bureaucratic model of the public corporation' by curtailing the party's allegiance to voluntarism.⁵⁸¹

The Labour party was the last bastion of free traders. Its strict adherence to the fiscal orthodoxy was a radical antithesis to Conservative protectionism. The free trade normalcy was projected to reinvigorate consumerist politics, which was, according to the Labour manifestoes, deemed to be consummated by the central control of production and consumption. To see the extent to which this feature of radicalism was out of step from the pre-war orthodoxy of free trade, it is important to look into how the Labour party sought to hedge the compelling exigency of industrial reorganisation, on the basis of which co-operative relationship between employers' organisations and trade unions was imperative. Despite the party's ungracious culture prone to overlook ideas from party intellectuals, J.A. Hobson published *The Conditions of Industrial Peace* and examined the problem of free collective bargaining as a Labour intellectual in 1927.⁵⁸² While his proposals for a living wage was adopted by the ILP as an alternative socialist policy to the mainstream gradualism, MacDonald appointed him as the chairman of party's advisory committee on trade policy. Hobson used to be a founding member of the

⁵⁸⁰ D. Tanner, 'Political leadership, intellectual debate and economic policy during the second Labour government, 1929-31', in Green & Tanner (eds.), op.cit., pp.138-40

⁵⁸¹ A. Thorpe, 'The Industrial Meaning of "Gradualism": The Labour Party and Industry, 1918-1931', *Journal of British Studies*, vol.35,1996, pp.84-113

⁵⁸² Tanner, op.cit., p.119

Rainbow Circle and a protagonist of new liberal organicist rationale to reconcile individual liberty with the common good of society. To rectify despotic condition of liberalism, Hobson's radicalism aimed to forge producers' alliance as the unified 'people' against privileged classes like 'landlords and rentiers'. He believed that the growths of large-scale business based on innovation in science and technology, which increased the amount of production, replaced the economy of custom and its advantageous ascendancy under free trade economy led to separation between production and consumption, when fierce competition turned out to be economic coordination by a corporate truce to fix prices and maintain high rates of profits. The condition of overproduction arose, as the number of employment decreased after the formation of monopolistic economic power made over-savings of capital and labour and took margins from the consuming public. In this condition of underconsumption, communal interests were not at all harmonised nor even taken into account and public opinion was amenable to the economic competition and lost human causes, when the spiritual cohesiveness got feebler between individuals after 'the free play of economic forces under the guidance of the selfish instincts of commercial individuals'.⁵⁸³

As a prescription for problems of under-consumption, Hobson considered that security of individual property was expedient against monopoly in the modern economy, which tended to divest labour of its value – the sole property of workers. To achieve this, collective control of society was necessary to utilise the force of consumption, since the more complex industrial organism became, the more important to scope out private

⁵⁸³ J. Hobson, *The Evolution of Modern Capitalism – A Study of Machine Production*, London, 1894, p.399

business for the sake of the public.⁵⁸⁴ In an attempt to seek effective demand, he proposed limitations on unlimited savings of individuals, which had a perverse effect to a whole of the community. Hence, a limit was set at the ‘quantity of socially useful “saving” for a community’.⁵⁸⁵ Unearned increments of income by land values of rent and price were adjudicated as surplus from ‘exertions and sacrifices of the community’. Such economic rent was justified ‘neither by natural “right” nor by expediency’ and could be ‘economically taken by the public and used for public purposes’.⁵⁸⁶ Under the public management, employment was adjusted to the social needs by adoption of public or relief works.⁵⁸⁷ Hobson believed that these public controls by state intervention in the economic liberty of individuals indicated conversion from freedom of trade to social organism, in which ‘best social use of all the social property by taxation’ was not achieved by natural liberty of individuals, but determined by ‘general expediency’ based on the public good.⁵⁸⁸ In this circumstance, individuals were no longer exclusive holders of private goods, but were members of society, who contributed their property to their ‘corporately made’ administration, which demonstrated ideas of the public as a social organism for the common good.⁵⁸⁹ Reducing underconsumption, the collectivist policy under the corporate administration was the only measure to afford a protection for the interest of consumers.⁵⁹⁰ Still, it left individuals equal opportunities of self-expression. It was a crucial task of the state to provide every man to enjoy a ‘fair chance of life’, which was oppressed by privileged classes manipulating liberal constitution and democracy by

⁵⁸⁴ Ibid., pp.412-38

⁵⁸⁵ J. Hobson, *The Problem of the Unemployed*, London, 1992 (first pub. 1896), p.93

⁵⁸⁶ Ibid., pp.100-1

⁵⁸⁷ Ibid, pp.159-60

⁵⁸⁸ J. Hobson, *The Crisis of Liberalism*, Brighton, 1974 (first pub.1909), pp.77-8

⁵⁸⁹ Ibid., p.80

⁵⁹⁰ Ibid., pp.130-2

enforcing unjust and inequitable laws.⁵⁹¹ Hobson's belief in materialism as a remedy for economic liberty was premised on moral and intellectual advancement of the people in the process of economic reforms overthrowing the vested interests.⁵⁹² To achieve economic equality, the 'general will' – or 'the expression of the moral force of the community' – only could bring the substantial justice and place property on a 'just and rational basis'.⁵⁹³

However, Hobson was not immune from fervid sentiment of imperialism of those days and it became his dilemma how to reconcile evolutionary organism with new liberalism as the democratic principle of social reform. The problems of underconsumption and overproduction posed challenge to the theoretical validity of free trade, which promoted foreign investment leading not only to domestic poverty, but also to threat to democracy. Hence, it was a perplexing problem for Hobson to find out how to reconcile free trade with welfare of the working class without counting on imperialist economic policy, particularly when confronting economic competition with foreign industries. His faith in radicalism turned his free trade policy once to 'little Englander' vision of anti-imperialism, which gave an immediate priority to social reform and redistribution of income inside the country over international trade.⁵⁹⁴ While economic competition between modern industries made almost equivalent conditions to militarism, such social reform could revive producers' alliance of small-scale industries, which were 'the key to a morally healthy, liberal future' against parasitism and the imperial policy overseas. In opposition

⁵⁹¹ Ibid., pp.169-79

⁵⁹² Ibid., pp.183-91

⁵⁹³ Ibid., pp.216-7

⁵⁹⁴ P. Cain, *Hobson and Imperialism, Radicalism, New Liberalism and Finance 1887-1938*, Oxford, 2002, pp.75-6

to the Liberal imperialists, Hobson advocated the progressive alliance with the Labour party and socialist reorganisation of industry by means of minimum wages to stave off iniquitous competition for the glorious empire.⁵⁹⁵ In this sense, he considered that the growth of imperialism deprived societies, either host or colonies, of freedom to choose indigenous developments in modern civilisation.⁵⁹⁶

However, in face of Chamberlain's imperial tariff programme, Hobson's view of free trade increasingly embraced a spectrum of internationalism, since only free trade made it possible to encourage national advancements in industrial democracy and 'intercourse of nations' based on economic justice. Taking account of international division of labour, he considered that ceaseless flows of international capital had an effect of separating sovereigns from local monopolies and equalising 'costs of production and so to enforce a better division of labour'. In this process, some demerits of the international free trade like underconsumption were offset by its merits of peace and equality brought about by an increase in international commerce levelling out economic and social conditions. The role of financiers had to undergo revisions as these were 'critical to the proper allocation of investment worldwide'. On the basis of what Hobson called 'worldwide utility', 'there was a benign invisible hand at work in international financial markets'.⁵⁹⁷ This optimistic speculation of international trade led him to the war-time advocacy of the League of Nations as the international institution to establish industrial democracy in underdeveloped countries. It was a role of the state to secure commercial treaties for their private enterprises and this political support for international free trade was supported by

⁵⁹⁵ Ibid., pp.128-39

⁵⁹⁶ Ibid., pp.159-60

⁵⁹⁷ Ibid., pp.180-93

the League.⁵⁹⁸

Cain has concluded that Hobson's acquiescence in individualist economics posed a question upon his organicist approach.⁵⁹⁹ In exploring Hobson's ambiguous standpoint between the economic orthodoxy of free trade and its organicism in the 1920s, it is important to take account of Clarke's study about the discourse of liberal intellectuals, who wavered between rationalism and functionalism. Hobson's compromised attitude was expressed as his advocacy of British revolution by 'reason and justice', which did not demand Bolshevik class-war, but his suspicion about the unconstitutional latitude of rationalism expected functionalist producers' alliance to act as the political force. He agreed with Marxism at this juncture that structural reform was necessary for the condition of harmonious society.⁶⁰⁰ As long as individuals were not self-contained and perpetually susceptible to biases evolved from outside pressures, political myths were the means to bring peace 'into a world of apparent conflict and disorder'.⁶⁰¹ Clarke has pointed out that after the war Hobson changed his stance on fiscal policy as he endorsed the war-time productivist notion that stimulus on consumption would develop powers of production, which led working classes to higher standard of living. This productivist turn consisted in maintaining the level of war-time demand and imposing capital levy to remove debts of the state. An outstanding point different from the pre-war period was Hobson's re-evaluation of social position of the rich.⁶⁰² Redistribution was the only way to rectify proportion of saving to spending and this central control rendered efficiency

⁵⁹⁸ Ibid., pp.204-12

⁵⁹⁹ Ibid., p.199

⁶⁰⁰ P. Clarke, *Liberals and Social Democrats*, Cambridge, 1978, pp.219-22

⁶⁰¹ Ibid., p.223

⁶⁰² Ibid., pp.226-7

and justice to industrial organicism, since, once equal distribution was successful in providing fuller employment, an increase in consumption improved productivity, which ended up in both creating effective demand and boosting national income. Two vital policies for facilitating redistribution were to maintain subsistent wage rates and to introduce progressive taxation.⁶⁰³

In *Industrial Peace*, Hobson pointed out the breakdown of *laissez-faire* economy, where the modern corporate economy in forms of trusts and cartels embittered the condition of overproduction. Since these productive forces could control output, prices and markets by their own right, they could gain the maximum of net profits through increase in efficiency and reduction of wastes.⁶⁰⁴ At some stages of production, factions of producers could add extra ‘surplus profits’ to prices of products before reaching the eyes of consumers. As a result, in contrast to the premise of free trade economy, in which profits and prices were kept low, their price rates were raised by interaction of industrial combinations. Such exercises of price control led to extortion of high prices and market dysfunction and, in consequence, individual and uncompetitive producers were extirpated. Under this circumstance, real wages and net profits were dependent on productivity and efficiency of others, rather than on their own, because, unlike in the consumerist order, all values were to be ‘socially’ determined – values of production were accommodated with operation of industrial organisation as a whole.⁶⁰⁵

For though its productive capacity depends upon its own equipment, technique, organisation and the efficiency of its personnel, the amount of its output and sales depends largely upon what the other competing businesses are capable of doing, and the total amount of business there is to do. And

⁶⁰³ *ibid.*, pp.230-3

⁶⁰⁴ J. Hobson, *The Conditions of Industrial Peace*, London, 1927, pp.12-3

⁶⁰⁵ *ibid.*, pp.28-9

these are not matters within its own control.

Therefore, the post-war economy changed a phase of collective bargaining from the one-dimensional settlement between organisations of employers and those of workers in a single trade to a multilateral level of negotiations in the light of 'a general equitable distribution of the surplus'.⁶⁰⁶ The workers' claim on their 'right to products' was no longer determinate without taking account of outside factors such as state intervention, conditions of industries and the consuming public. Once an increase in wage rates pushed up prices, this led to reduction of income in other industries and, therefore, appeared disparity among industrial sectors, which were severely underpaid and wastefully overpaid. Since it was difficult to judge in this condition whether responsibility of economic failure was caused by external or internal reasons, surplus wealth had to be allocated for social purpose. Hobson considered that large profits of economic combinations were rooted in purchasing power of communities:⁶⁰⁷

In equity we may say that the entire body of these surpluses, rents, excess profits, monopoly earnings of ability, etc., constitute the rightful social or public income, as distinct from the proper or economically useful incomes of individuals. In strict logic, of course, the social determination of values requires us to hold that all income is 'social' in origin.

For industrial peace, public administration distributed preserved surplus wealth to industries which were outplayed in market competition. Such public revenue was collected by taxation on surplus profits, since, in contrast to the *laissez-faire* economy,

⁶⁰⁶ Ibid., p.74

⁶⁰⁷ Ibid., p.64

state intervention did not put adverse effect on economic activities of private capital particularly for the purpose of adjusting mismatch between production and consumption. Hence, either by economic corporations such as trusts and cartels or by other price-fixing boards, the public services were capable of administering social wealth ‘in the sense of enlarged human welfare’. Relieving people’s concern over overproduction, fair distribution of wealth would raise productivity as giving incentive to improve methods of production.⁶⁰⁸ With endorsement of *loci standi* for producers and consumers, Hobson considered, socialist society was formed by equitable settlement of industrial peace through a standing body composed of representatives of all the interests. In case of Britain, permanent formation of the ‘National Industrial Council’ was expected to fulfil this role, inheriting functions of the Whitley Councils, Trade Boards and Industrial Court. Insofar as British economy was meshed in the international framework, it was not enough to mention solely the national conditions. To achieve international co-operation, Hobson argued that reasonable standards of economic and industrial regulations had to be defined by the League of Nations.⁶⁰⁹

It was important for Hobson to emphasise that personal liberty, whether individual or collective, was not given priority over the ‘social right’, because neither employers nor workers could be the best judge of values of their products and services in industrial disputes in regard with risks or harms on other industries: their rights ‘to strike or lockout was[is] only valid as a right of self-defence, so long as no better remedy is available’. It was society, which ‘always reserved[s] the right of intervening when a monopoly of

⁶⁰⁸ Ibid., pp.90-1

⁶⁰⁹ Ibid. pp.108-15

scarcity, natural or contrived, threatens public order or vital interests'.⁶¹⁰ The 'social right' rendered stoppages called by discretion of individuals unnecessary. To avoid halting exchange of trade, loss of purchasing opportunities of consumers and workers' refusal of terms of contracts, Hobson considered it was necessary to build a more compulsory system of arbitration. Other than improvement in education of social obligations, reflection of public opinion and legal coercion, there was a certain belief in his vision that materialisation of industrial peace was made possible only by intervention of the central authority in industrial relations, if the international framework and the principle of social right gained legitimacy in the society.

⁶¹⁰ Ibid., pp.120-1

Conclusion

This thesis has shown that when contemporaries called for free collective bargaining between 1860 and 1930, this liberal jargon connoted two contrasting meanings in the free trade society. On the one hand, it suggested free trade in labour in the mid-nineteenth century, which made it possible for working class people to define rights and duties with their employers on equal terms. In this process trade unions could seek not only fair day's wage for a fair day's work, but to protect their conventional practice of labour by halting overproduction and limiting the number of apprenticeship. The working class right to carry out free collective bargaining was secured by the Trade Union Act of 1871, in which trade unions were allocated the status of the Friendly Societies Act and placed outside the corporate responsibility – they evaded separation between welfare and trade fund. With other charters – the Conspiracy and Protection of Property Act and the Employers and Workmen Act of 1875 – this legal acknowledgement of trade union practice constituted neutrality of the state in industrial relations. Under the voluntary scheme of collective bargaining, capital and labour could reach the common good of communities without state intervention.

On the other hand, when the progressives advocated the voluntary practice of collective bargaining in the post-First World War period, the liberal jargon displayed a different sense from the original. The voluntary method was still preferred to compulsory arbitration and trade unions persisted their conventional bottom-up practice of industrial democracy. However, the war-time experience caused a drastic change in industrial relations, when there was exigency of the state to protect the national interest. It was no longer based on the liberal relationship between the state and market, which was governed

by the neutral order. The war-time statutory measure restricted the labour market by extending the government control over munitions production. The Munitions of War Act of 1915 limited the remit of collective bargaining, as it reflected strongly purport of the state, imposing regulation, dilution and rationalisation of labour process, which took the place of customary practice of trade unions. In place of equal relationship with employers, officials from the Ministry of Labour administrated substantial negotiations with trade unions in the process of collective bargaining, in which the latter's strong tie with the state disclosed their almost incorporated condition.

By examining the intellectual background of this change in the political meaning of free collective bargaining, this thesis has aimed at contributing to historiography through redefinition of the liberal culture of free trade. The rise and fall of Britain's voluntary market culture of collective bargaining suggested the process, in which conditions of free trade in labour were deteriorated in association with the growths of corporate economy. Political economy of free trade was not a consistent economic discourse in favour of expansive production in market economy. Its advancement was concurrent with the religious and moral disciplines.⁶¹¹ Hence, its embrace of voluntary market practice of collective bargaining did not indicate the straightforward acceptance of the economic orthodoxy of individualism by the working classes as presumed in past historiography of trade unionism.⁶¹² When the trade union charters endorsed the voluntary operation of collective bargaining, the Liberal party championed co-operation between official and popular economic culture and endorsed trade unions as economic organisation of labour

⁶¹¹ Hilton, *The Age of Atonement*. Searle, *Morality and the Market*.

⁶¹² Webb, *History of Trade Unionism*. Clegg, Fox & Thompson, *History of British Trade Unions*. Fraser, *Trade Unions and Society*.

to reconcile market economy with the public interest in the private sphere. Their voluntary solution was the rule of law in the market culture of free trade, as its autonomous function secured the public good by achieving equilibrium between consumers' and producers' interest. However, this consensus faltered immediately, as there were increasing calls for growth-oriented mode of production. The market culture of voluntarism ended up in deadlock, when the state had to handle problems of corporate governance in relation to economic competition with rival countries.

Liberal intellectuals showed a grave concern against this separation between economic and moral rules in free trade economy. In acceptance of collectivism, they advocated idealist principles, which aspired to achieve the public good by reflecting positive conception of public opinion. Complementing theoretical indeterminacy of market competition, their differential usage of public opinion suggested liberal and pluralist spectrums represented by Conservative political economy. In this respect, this thesis has aimed to supplement historiography of the liberal culture of free trade with the latter's intellectual experiment in institutional provision of collective liberty, whose kernel of producers' trust as decentred public virtue has been overlooked by historians of free trade.⁶¹³ While the New liberal economic policy of free trade strived to meet demands of consumers by the state 'tailoring' organised function of industrial co-operation, the Conservatives developed the liberal principle of economic organisation of labour in protectionist economy, by which autonomous identification of producers' with consumers' interest was made possible under the guidance of public opinion. However, with the decline of the voluntary market culture of collective bargaining, these views to defend the

⁶¹³ Howe, *Free Trade and Liberal England*. Thompson, *British Political Culture and the Idea of 'Public Opinion'*. Trentmann, *Free Trade Nation*.

liberal culture of public opinion was submerged by the growth-oriented economy, as the First World War marked a watershed, necessitating productivist formation of national economy.

The post-First World War arrangement to reconstruct the pre-war framework turned out the situation that the voluntary framework of collective bargaining was irretrievable. Treasury's return to the Gold standard and deflationary finance emasculated the Whitley scheme which aimed to minimise state intervention in industrial relations and prompted adjustment of industrial coordination by the joint industrial councils and trade boards. However, what the return movement provoked was industrial unrest, which coal-miners developed into the nationwide strike in 1926. The progressive force from both employers' organisations and trade unions declined either national or international coordinating framework and proclaimed to uphold the constitutional status of free collective bargaining. Nonetheless, from the Conservative-led Mond-Turner talks to Labour's gradualism, the revival form of progressive policy was oriented to co-operation based on industrial rationalisation, by which industrial peace was secured by an increase in industrial efficiency in expectation of reduction in unemployment. Since the Trade Disputes Act of 1906, the British government had not embraced industrial relations and avoided ostensibly engagement in class interests in politics, but free collective bargaining no longer played the autonomous role in the voluntary framework, but a conciliatory role in organised entity of production embedded in the quasi-corporate framework.

This thesis has examined how contemporary intellectuals saw the voluntary operation of collective bargaining and their anxieties over and reactions to the growth of its principle. When it endorsed free trade in labour in the 1860s, the discourse of political economy

endowed trade unions with theoretical backing that they were not in restraint of trade. In the nineteenth century, its discourse always championed the cause of free trade. However, in the backdrop of the legal acknowledgement of trade unionism, the optimistic and universal language of free trade was counterpoised by the heterodox discourse of political economy placed by the Millian circle. The latter regarded the civic virtue of associational efforts as the means to save people's religion of humanity and injected republican egalitarianism into the market principle, in which the heterodoxy placed a stronger emphasis on de-centred growths of co-operation between capital and labour as leading to cultivation of the public spirit than economic concerns.⁶¹⁴ Therefore, when the radical movement secured equality before the law of trade unions, Mundella's boards of conciliation and arbitration in his hosiery trade were so impactful that officials acknowledged the voluntary action of trade unions. The discourse of political economy enabled trade unions as economic organisation of labour to reconcile market economy with the public interest, since the voluntary collective bargaining disseminated self-less virtues of reciprocal acts by determining rights and duties between capital and labour.

The liberal relationship between the state and market economy had been predicated on Britain's distinct development of political identity of consumers in free trade economy. Their strong presence buttressed the legitimacy of voluntary collective bargaining. As the third economic force, the public voice of consumers was deemed to seal the gap between officialdom and market economy. The positivist concept of public opinion was, thus, expected by intellectuals to play an adjudicating role of industrial mediator in the process of collective bargaining and have an effect of moralising the market in the neutral

⁶¹⁴ Lipkes, *Politics, Religion and Classical Political Economy*.

institutions.⁶¹⁵ In combination with the radical discourse of political economy, this consumerist politics of public opinion formed a bilateral proposition in granting credence to the minority report of the Trade Union Act of 1871. Contemporaries including trade unionists and Christian preachers shared a strong sentiment that co-operation was achieved by market equilibrium between capital, labour and consumers and shaped the idea of moral economy, in which the tripartite ideological stronghold enforced the rule of law upon the free operation of collective bargaining not to maximize the interest of individuals, but that of the public.

This mid-Victorian concept of co-operation between capital, labour and consumers in the voluntary collective bargaining was gradually depreciated, as its rule of law in voluntary market culture lost consensus over securing the public good in confrontation with the growth of Britain's corporate capacity and its pursuit of the national interest. Contemporary liberals like Crompton saw this process with grave concerns and expressed their fear against the economic situation, in which moral economy was increasingly overshadowed by the economic law of overproduction. This shift encouraged the growth of deductive approach to market economy, which was inclined to endorse practice of maximising individual interests. Such rhetoric of growth-oriented production was adopted even by trade unionists, for whom the conventional policy of trade unions was so irrational as to halt operation of market economy and limit opportunities for expansion of production. For upholders of the classical orthodoxy, trade unions were granted associational privilege by evading the corporate status and their rights to strike were an industrial weapon for achieving their 'class' interest.⁶¹⁶ From this viewpoint, the trade

⁶¹⁵ Thompson, op.cit.

⁶¹⁶ Curthoys, *Governments, Labour and the Law*.

union programme – limitation of apprenticeship and overproduction – was equivalent to imposition of collective tyranny upon individuals. Hence, there was a growing demand that it was more important for trade unions to develop the idea of co-operative production, in which labour could learn how to accumulate capital and increase material welfare for a large number of working people. Jevons, a leading political economist of the marginal revolution, insisted that co-operative production grounded on incorporated limited liability was a rational way to avoid industrial unrest, which was deleterious to national economy and to achieving the common good. The growth of deductive economics shared its cause of growth-oriented national economy for the individual interest with the discourse of co-operative production.

The positivist concept of public opinion had holistic and organic characteristics. When embracing the federative and national framework of collective bargaining, it gradually lost its efficacy and legitimacy to reconcile market economy with the public interest. Organised bodies of employers and employed collided with each other for their sectional interests and their representativeness tended to overlook the interest of either local bodies or rank-and-files. In consideration of this institutional lapse of the voluntary solution of collective bargaining, the liberal intellectuals took differential discourses in order to reconcile the operation of collective bargaining with the public interest. In contrast to neo-classicism, which, like Marshall, expanded utility of consumers as an ultimate determinator in the market principle, this thesis has revealed that historical economists like Cunningham, Price, Foxwell and Ashley aimed at tackling the problem of trust in society. Their reformist tradition sought to reconstruct trust among producers by revamping and reimplementing economic organisation of labour in the corporate framework. In their discourse, public opinion was not invoked in individualistic and

voluntarist latitude, but as collective force, which called for producers' collective action by appraising their role of custom. Rather than enthrone the consumers as the public authority, their visions of public opinion suggested a pluralist way of solution. In reconciliation between market economy and the public interest, their concepts of economic organisation of labour endowed the working classes with their autonomy to identify with the interest of consumers. To this end, historical economists emphasised the importance of economic coordination under the neo-mercantilist economy based upon protectionism.

Rather than tailoring the voluntary framework of collective bargaining to meet the interest of consumers, historical economists' advocacy of economic organisation of labour was projected to achieve economic coordination between production and consumption at a corporate level. Maitland pointed out that the problem of trust arose, when the common law tradition endorsed the principle of general limited liability, since the latter did not dovetail with the individualist and voluntarist tradition of official endowment of trust with unlimited liability. Free competition of economic corporations under the principle of limited liability emasculated the voluntary procedure of collective bargaining to secure freedom of contract, which the trade union charters of the 1870s premised. Rather, the voluntary practice was subjugated to pressure from corporate interests, whose order of priority given to national economy divested autonomy of trade unions and favoured the incorporated status of labour. While the Trade Disputes Act of 1906 ruled out corporate responsibility of trade unions, they could not retrieve the customary practice safeguarding the public interest, since there was no basis of trust between officialdom and the working class radicalism. In this circumstance, Cunningham considered that the problem of trust was that of religion, which took a form of absence of the public spirit – lack of personal

attitude towards social duty. The *laissez-faire* economy deprived industries of producers' customary practices, which played a vital role for finding the common interest by economic coordination. At this stage of the economic development, Cunningham insisted state intervention as the means to rebuild trust in society. However, what determined direction of national policy was not the abstract and deductive principle of modern economics, but public opinion moulded by the civic voice.

While Cunningham developed his national policy to restore trust in society, other historical economists advocated more rational visions to secure the public interest. Price adhered to market economy rather than economic coordination by corporate bodies. Posing a doubt about the legitimacy of free trade after Lloyd George's expansive fiscal policy, Price expected public opinion to advance corporate action of producers to determine the national interest, whose importance was disparaged by free traders. He believed that producers' competition in corporate economy would eliminate wastes of imperfect competition developed under Lloyd George's free trade policy and serve the public interest. In contrast, Foxwell counted on efficacy of corporate governance, in which public opinion represented the common interest, since it was important to cushion harshness of economic competition and to protect custom of workers. However, his lingering faith in market rationality did not suggest state intervention by the central authority, but decentred autonomous function of municipal or economic corporations, whose public control was projected to prevent corruption and impose practical and efficient regulations. Both Price and Foxwell insisted formation of collectivist organisations as the means to reconcile the interest of producers with that of consumers. Ashley was not exceptional. He also considered to be vital for regulation of production both corporate organisations embedded in-between the state and individuals and publicity

of their managing accounts, by which capital could meet demands of labour for the interest of communities. In face of the great industrial unrest before the war, Ashley drafted a report of the USRC, which aimed to protect the interest of labour by fostering their common interest with capital, on which public opinion could put pressure. Against free trade, in which cheap labour and production were always source of trouble in market economy, he defined that it was a role of the state to seek industrial peace by developing public opinion and economic organisation of labour.

The New Liberal government took an organicist approach to industrial relations, which was called by Howell to be the collective *laissez-faire* system.⁶¹⁷ The government increased its mediating role in industrial disputes. Since public opinion was considered to be embodied by the morality of politics, the Board of Trade intervened and helped their settlements by assisting industrial relations not only to set up the scheme of collective bargaining and to define the wage floor, which was sanctioned by the Trade Boards Act of 1909. In adherence to free trade, it aimed to rationalise the labour market. By forming a nation-wide framework of labour exchanges, New Liberals encouraged effective operation of market economy. The introduction of national insurance was also aimed at rationalising and compensating failure of the labour market. When Beveridge made a proposal of labour exchanges, he believed that it was more efficient than relief works to form the state institutions, which could organise fluidity of the labour market, giving labour mobility and adjustability to meet supply and demand. He did not just attempt to materialize the theoretical assumption of classical political economy, but, taking account of problems caused in practice such as ignorance, poverty and custom, to exercise central

⁶¹⁷ Howell, *Trade Unions and the State*.

control over demands for labour as the means to ease conflicts of market competition. Radicals like the Webbs made a counterargument against the organicist system of the collective *laissez-faire* because of its disruption of freedom of contract, which the voluntary system had guaranteed. It made an uncoverable gap between union and non-union workers, since producers were always exposed to severe competition under free trade and only those in well-organised unions could reap rewards of production. The policy of statutory minimum wage was their alternative measure to grant citizenship to producers.

Britain's war-time experience was a turning-point, at which the organicist approach to market economy was shifted from consumerist to productivist frame of mind. The Munitions of War Act restricted the procedure of collective bargaining and introduced the compulsory arbitration system in case of strikes and lock-outs. The working class progressives saw party politics as the means to protect voluntary solution and became a strong negotiator with the state on working conditions. The coalition government took a pro-labour policies to cope with exigency of war-time production. Clay saw such experience as critical to the liberal framework of collective bargaining. It was no longer possible to seek effective price and adjustment to new conditions by the conventional practice of collective bargaining, since bases of pre-war customary practice collapsed after the war-time increase in prices and inequality between industries. Bureaucratisation of the procedure of collective bargaining led to the situation, in which negotiating strength of organisations was vital for determination of wage rates. Hence, Clay argued that the government became more and more responsible for intervention in industrial relations and that there was a change in nature of public opinion, which began to see and command the state to keep industrial peace. He insisted that for reimbuing democratic society with

egalitarian sentiment, private enterprise was more suitable than concentrating power to the public authority. However, in the post-war world, it was unreal to separate the economic from political sphere.

Upset by the national strike of 1926, party politics promoted the progressive co-operation for industrial peace. Both Conservative and Labour party saw reorganisation of industries, based on industrial rationalisation, as inevitable for social reform. In this sense, the constitutional status of free collective bargaining did not mean the return to co-operative relationship between capital and labour in view of the voluntary market practice. The Labour party was the last bastion of free trade, but, rather, it reinforced the central control in adjustment between production and consumption. Hobson believed that the progressive alliance was indispensable for unifying people against privileged classes. To achieve this, he considered that the problem of underconsumption rooted in free competition by large corporate bodies had to be tackled by the central authority to distribute wealth for the sake of communal interests. Under the public control, either individual or collective liberty was subjected to general expediency of 'society'. After the war Hobson moulded his vision of progressivism into the productivist discipline of orthodox economics, in which he admitted benefits of international and imperial trade, as increase in world consumption was linked with improvement in production. In this principle, the unilateral framework of collective bargaining was no longer effective, because what was in need to make adjustment between production and consumption was the wholesale paradigm to control conditions of industries by distribution of surplus wealth. At this juncture, the mid-Victorian practice of collective bargaining in the voluntary framework was wholly displaced in the intellectual discourse as the means to identify the interest of producers with that of consumers.

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